2. Casualisation and Flexibility : Impact on Worker's Health

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Non-standard employment, subcontracting, flexibility, health

What protection do employment contracts offer workers from changes in work organization ? How do we differentiate between standard and non-standard employment contracts ? Positions in the workplace cannot readily be pigeonholed by this typology of individual jobs. The "(dis)organization" of work of the past 20 years has wrought changes in the social division of labour, stemming mostly from the rise of different forms of subcontracting[1]. This is not a recent phenomenon. Henry Ford himself, at the turn of the 20th century, counselled it as a way of holding down the principal manufacturer's production costs. But the spread of outsourcing across all productive industry and into government in most countries across the world must be questioned, not just on cost saving grounds, but especially as regards the right to a healthy work environment and how many options it closes off to workers, individually and collectively.

Employment contract rules, and their associated rights and obligations, especially on health and working conditions, are laid down by legislation and regulation. These rules govern relations between the employer who specifies the work (and must provide safe work systems) and the employee who undertakes to perform it, knowing himself protected by the guarantees - particularly on hygiene, safety and working conditions - enshrined in the regulations. With subcontracting relationships, however, this framework has to accommodate multiple employers. The actual signatory of the employment contract is most often only an intermediary for the work specifier: the prime contractor or customer. But working conditions, exposure to risks, time and quality constraints are part of the business-to-business bargain and enforced on employees regardless of the employment contract. So, a standard employment contract may be regarded as one under which a worker can exercise rights and the benefit of the guarantees associated with the employment contract, as laid down in national laws or international directives and conventions. By contrast, a non-standard employment contract can be defined as one in which the employer is not the work specifier. This means not just workers on temporary or part-time contracts, therefore, but all those dependent on subcontracting relationships.

This paper will first paint a broad brush picture of occupational health in this "new economy" context. It will then go on to briefly consider where this "new economy" draws its legitimacy from and the reasons why trade unions have not spoken out on worsening conditions of health at work. It concludes by mapping out ways forward for research and action on health at work in response to emerging new forms of balancing forces.

[1] Under AFNOR (French standards institution) Standard NFX 50 300N of November 1987: "industrial subcontracting may be considered as including any activity which contributes to a particular production cycle, one or more stages in the design, development or manufacture, implementation or maintenance of the product in question, the performance of which is commissioned by a firm described as the customer or principal manufacturer from a firm described as a subcontractor or order taker, who is obliged to comply in full with final and binding technical instructions laid down by the customer".

An outline stocktaking of the occupational health impacts of job insecurity

Job security and occupational health are being increasingly undermined in countries and continents across the world. M. Quinlan *et al*. (1) have pointed out the adverse impacts on occupational health. But these processes are not easy to pin down precisely. The health impacts of work organization can be assessed at three levels: assessment of hazards, working conditions and stressors with known pathogenic effects; identified health damage; health impairing processes.

Assessment of hazards, working conditions and stressors

National and Europe-wide surveys of working conditions and work organization for the EU and in other countries - especially North and South America - report that working conditions are getting generally worse world-wide. But these are hazards with well-established pathogenic effects, including time constraints and working hours (night work, shift work).

Recent surveys by the Dublin Foundation (2) reveal that physical and chemical hazards are a continuing problem, and work organization constraints are increasing, for all European workers. The European survey of working conditions also points to a statistically established link between insecure employment and more arduous working conditions: 57% of temporary workers work in painful and tiring positions (compared to 42% of permanent workers); 38% are exposed to intense noise (against 29%); 66% perform repetitive movements (against 55%) (3).

By contrast, there are no systematic figures on inequalities in the working conditions and work organization constraints between prime contractors' own employees and employed or self-employed subcontract workers. One case in point, however, is the French nuclear power industry, where outside workers engaged on power plant maintenance account for 80% of radiation hazard exposure (4). Risk subcontracting is also an established practice in industry, building and civil engineering, and the hospital sector. But there is no risk assessment by industrial sector which include all workers in the sector regardless of firm and employment status, even though that would be the one operational unit for assessing the risks associated with a type of production.

Identified health damage

Industrial injury figures show that the post-war structural decline in work-related accidents in the so-called developed countries came to a halt in the early 80s. Subsequent fluctuations are related to the characteristics of currently-occurring work accidents and how compensation is administered. Firstly, there is the persistent serious and fatal accident rate (accounting for some 10 000 deaths a year in the EU, and over a million deaths each year worldwide). But this must be regarded as a baseline level due to changes in reporting methods: for one thing, companies systematically pressure employees into not making accident reports; while for another, many workers - especially in Third World countries - are no longer on payrolls which give them social security cover. In Brazil, for example, outsourcing (*terceirização*) means that about 60% of the employed labour force is not declared for social security purposes. Finally, it must be stressed that subcontracting out risks dissolves the linkage between a prime contractor and the work carried out by the workers in the final tier of multi-tier subcontracting, in the same country or, in the case of international subcontracting, in another country. There are no indicators available by which to link an accident suffered by a contract cleaner in the chemicals industry to that industry segment, or to assign responsibility to a prime contractor - a European company placing an order with a foreign subcontractor - for an accident occurring in an Indian clothing workshop. So, dominant European or US companies can boast very low work injury rates because they only list accidents affecting their own employees. Seen this way, the comparison between large and small firms is invidious, since it implies that large companies are taking effective preventive action while smaller ones are not; whereas, in point of fact, the former are contracting out not just the work, but also the risk and management of their employment hazards.

That workers' health is directly at risk from work organization constraints can be seen from the epidemic proportions attained by musculoskeletal disorders (MSD) and time-pressure-related repetitive strain injuries affecting all countries worldwide. Neither Community nor national laws

MSD in Europe

The Eurostat pilot study (1999) indicates that MSD were among the ten most frequent occupational diseases in 1995.

In the United States, "the number of repeated trauma cases increased dramatically, rising steadily from 23,800 in 1972 to 332,000 in 1994 - a 14-fold increase" (NIOSH, 1997).

In France, the statistics reveal a sharp increase in cases of MSD recognized as occupational diseases, from 430 cases in 1981 to 7312 cases in 1997. Overall, 3.4 million people - 28% of the work force - are exposed to MSD.

In the United Kingdom, during the period 1985-1995, the single most common cause of an over-3-day injury to employees was injury while handling, lifting or carrying.

In Spain, in 1997, 69% of workers who replied to the questionnaires claimed to suffer MSD in lower back, neck and chest.

Source: *TUTB Newsletter*, No. 11-12, June 1999.

set limits on work intensity or intensification. Neither legislation nor regulations prevent productivity standards (number of pieces to be produced or movements made in a set time unit) being ratcheted up. The only limit to the overburdening of workers is breaking point. The large visible part of this workplace epidemic, however, must not put out of sight that recognized cases are just the tip of the iceberg of actual cases, and that the impairments which result from these injuries may stop sufferers ever working again. Subcontracting has a bearing here, too, in the motor vehicle industry, for example, where work intensification is "contracted out" by carbuilders to equipment manufacturers. But the working conditions, time constraints and productivity requirements foisted on the latter's employees would almost certainly meet with organized resistance if imposed on those of the prime contractor.

Asbestos provides telling evidence of the epidemic of work-related cancers. Millions of European workers already have or will develop cancer over the next 30 years before the effects of the ban on asbestos use in Europe are felt. But millions more employees are exposed to toxins and carcinogens. The statistical evidence for this is there, but the mechanisms which enable their continued existence are largely untraced and their effects on workers' health unseen. In many cases, they have been partly dealt with in-process (e.g., the chemicals, petrochemicals and nuclear power industries in particular). But contracting-out maintenance-, cleaning-, transport- and waste treatment-related risks makes them invisible relative to the business concerned. The relocation of hazardous industries is no more than a direct exporting of risks to countries whose occupational health and environmental rules permit activities which are prohibited elsewhere. Is the WTO really the right forum for settling disputes on double standards in public health (5)?

Health-impairing processes

So far, I have considered health damage essentially in biological and medical terms from an individual organ-based approach to health. Taking a different approach based on a different definition of health, a critical analysis can be made of not just the risk factors but the social dynamic which shapes the life course of health.

A dynamic approach to occupational health enables us to see how growing health inequalities are part and parcel of changes in the social division of labour, challenge health protection law and its practical implementation, and to give insights into the strategies developed by individuals to manage the ongoing tug-of-war between health and productivity.

That means seeing health not as a state but as a dynamic process, using the definition which forms the basis of the ISIS team's[2] scientific approach : *Health is a dynamic process by which individuals develop and progress, a process which imprints in the body and personality the traces of work, living conditions, events, pain, pleasure and misery, of everything which goes to make up a person's individual and collective life course through the influence of the many paradigms in which it is bound up.*

From a survey based on this approach to health, a longitudinal analysis of the family and occupational histories of women who had lost their jobs was able to identify processes of health decline and social exclusion related to their personal work histories, which gave insights into the background to long-term unemployment and ill-health among women workers excluded from the labour market (6). Another longitudinal survey under way on the developing occupational health experience of vocational secondary school-leavers is providing insights into the effects of what J.P. Legoff calls "gradual brutalism, or the indiscriminate modernization of business and education" (7). Most young people in France nowadays get their first taste of work through temping, which leaves no scope for improving their occupational health knowledge. Lack of training is not the reason why young people under 25 account for one in four employment injuries in France. More likely it is the conditions of their labour force attachment as serial "outside" (i.e., subcontracted) and temporary workers. As a result, several thousand

[2] Team on "Social inequality, industrialization and health", INSERM U292 - Kremlin-Bicêtre, 1986-1997 which joined the Université Paris-XIII's Bobigny-based Research Centre on Issues in Public Health as part of the INSERM99-05 team on "Inequalities, policies and health" in 1998.

each year suffer permanent after-effects from accidents, with the great disadvantage of having to continue their career path with an occupational disability.

A similar approach guided Michel Bonnet's "inquiries into working children" who in all continents across the globe have no other choice for their own survival than to take the work "offered" them by multinationals in their never-ending quest to cut production costs (8).

The legitimacy of the "new economy" and the "industrial peace" which underpins its expansion

"Industrial peace"

The basis of the "industrial peace" on workplace health issues is to be looked for in the last century's trade-off agreements on industrial accidents and their consequences for the organization of compensation systems and preventive occupational safety.

The industrial accident legislation passed in Europe a century ago was the first formal social and political recognition of the health effects of working conditions. Curiously, however, the industrial trade-offs in the different countries which resulted in the passage of this legislation gave workers no rights to be protected against work-related injuries - in a public health and risk control approach, but developed from the various forms of legitimation of occupational risks - as inherent to the production process - and cover against them as an integral part of the social insurance and protection system. The labour movement's acceptance of lump-sum compensation for industrial accidents effectively waived the right to "have justice done" for the loss incurred by an accident in the workplace. The "fault" or "offence" constituted by an employer's ordering a dangerous task to be performed which resulted in injury or death was replaced by the principle of insurance against the inevitability of work-related risks. Recognition of occupational diseases follows the dictates of the same insurance-based approach, and is generally limited to compensating a handful of diseases within the confines of particularly restrictive conditions.

What is not often pointed out about these basic health at work provisions is the radical shift effected by this change from identifying causes and assigning responsibilities - through legal action - to an insurance-based approach concerned not with causes but only with cash compensation for health damage. Occupational health is seen only in terms of its monetary worth. Wages and the producer's surplus are the only recognition of the worker's involvement in production. In capitalist industrial society, being compensable made industrial injuries and occupational diseases socially "acceptable". In this way, the guarantors of the industrial system were able to outflank political and social challenges over the health impacts of industrial work organization. The procedures and amount of compensation for the "fallout of progress" became a financial issue in labour relations and on the pay bargaining agenda.

This brief historical review is needed to understand the current state of play in occupational health, and the lingering effects of past decisions not to put occupational health within the remit of public health policy but to develop a framework for bargaining around victim compensation. The inclusion of prevention within this framework is more about cost improvement than protecting workers' health per se.

This historical compromise deprived the knowledge and recognition of work-related health damage of their critical potential paving the way for prevention-driven change in the drive for working conditions and a work organization more consonant with workers' health.

The breakdown of "industrial peace"

Work rationalization in line with the guiding principles of changes in work organization over the past 30 years shattered the compromise which underpinned "industrial peace." Not only did economic growth cease to offer hopes of any short- or medium-term improvements in working conditions, pay or workers' living standards, it actually legitimized a steady worsening of all conditions of employment, especially occupational health. The results of this are now clear as the "preventive health" agencies are being used to rationalize occupational health on the grounds of "employability" - a tacit form of genetic selection of workers. What fundamental principles lie

behind the social legitimacy of this development, and why has the trade union movement not so far spoken out ?

The principles of the "new economy"

The keywords which embody the "modernization" of work organization over the past 30 years cloak the reality they describe. But it is precisely that underlying reality of management-speak that must be understood if it is to be changed.

■ Globalization

The globalization principle legitimizes expansion by the most powerful firms to wherever costs are lowest and profits highest. For this, they have developed two interlocking practices: national and international relocation of production and outsourcing.

It has enabled transnational firms to shift risks wholesale from their stable workforce onto outside workers with no job security, from workers in the North onto those of South.

■ Competitiveness

Competitiveness is central to the way work organization is used to confer social and political legitimacy on the creation of inter-worker rivalries between all production workers: a divide and rule policy between established workers of large firms and subcontractors' employees, between permanent workers and temporary workers.

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The acquired social legitimacy of subcontracting and temporary work have denied a growing number of workers any possible opportunity for bargaining between the work specifier - i.e., the prime contractor or employer of the user firm - and the work performers - outside or temporary workers. The work becomes a service package deal negotiated between two employers predicated on a job performance obligation by the workers responsible for providing the service within a customer-supplier relationship. Marie-Laure Morin has clearly shown how this relationship falls outside the scope of labour law (9).

■ Flexibility

This principle - the Holy Grail of the 80s elevated into the essence of labour and jobs - legitimized the questioning of existing guarantees, rights and regulations on employment (legalization of sweated labour in the guise of temporary work) and working time (deregulation of the forms of working time: flexible working hours, night and week-end work, annualization, flexible part-time...). As a result, government voluntarily relinquished areas of control over the consequences of flexibility for jobs, working time, and the associated work intensification: business "health" - dependent on flexibility - was seen as a more legitimate claim than employees' right to health, which depends on economic security, a relaxation of time constraints and a consistent tempo of social and family life. Finally, the various forms of flexibility have radically affected workers' representation and the exercise of their right of consultation, especially, but not only, for outside and temporary workers.

■ Productivity

The modern embodiment of this founding principle of capitalism is to fit the size of the employed workforce and paid working time as closely as possible to the volume of goods and services immediately required. Business has used productivity to legitimize human resource management methods which push workers to their physical and mental breaking points; to select healthy workers; to abdicate responsibility for the consequences of these management methods, both in terms of the human and financial cost of unemployment, or meeting the health and economic costs of occupationally disabled workers excluded from the labour market.

■ Empowerment and total quality

Who could deny the value of empowerment and raising quality standards in work ? In the "modern" organization of work, these principles legitimize new forms of subordination by shifting responsibility for production control and imponderables from management onto the workers actually doing the work. Prime contractors and employers set the productivity targets, quality and safety standards to be met, and production lead times, leaving the workers to work out their own strategies, trade-offs and ways of meeting all these demands. They have a performance obligation which for many will determine whether they keep their job. So, they have sole responsibility for choosing between productivity (meeting productivity targets) and their health (the deadlines or quality standards set are often at odds with observance of safety rules and/or simply preserving their physical or mental faculties).

Labour relations and occupational health : silence from the unions

Over the past 20 years, working conditions and work intensity have not been prominent on the trade union agenda. Some structural attributes of changing patterns of work organization offer insights into why the trade unions failed to speak out on what had been a key issue of labour disputes in previous decades. "No forced speeds" had been a rallying cry in the labour disputes of the 60s. Four key issues can be identified relating to changing labour relations and the free hand given to work intensification.

The first is that allowing employers to use temporary staff let them cut their permanent workforces while continuing to manage changing business activity levels on a more needs-driven basis. Flexible work practices have allowed employers to rationalize working time but also forced a division between stable and temporary workers who may have opposing interests in speeded-up working.

Secondly, the spread of subcontracting lets prime contractors shift not just risks and hazardous activities but also productivity constraints to service providers. Subcontracting is also a very major factor of work intensification. The fact is that a business-to-business contract turns work into service provision. And yet the prime contractor still specifies the task, the particular operating procedures, quality and safety standards and completion times. The subcontracted workers have a performance obligation in a supplier-customer relationship. There is no contractual link between these workers and the prime contractor setting the relationship of subordination which connects them with the rights and obligations of an employment contract. This extinguishes all opportunities for negotiation on working conditions, working time, hygiene and safety between work specifier and workers. The only possible mediator is or would be the representative bodies of the prime contractor's own employed workforce. But these bodies do not represent outside workers whether present on-site (maintenance) or working externally (outsourced production). Finally, international subcontracting or relocation of production lets large multinational prime contractors export hazardous and/or labour-intensive production to countries with the least protective labour laws, be it health protection, pay, employment or trade union rights.

A third, political factor plays a major role in a country like France - the choice made by the legislator and central government to use enforced working time flexibility as a bargaining counter with employers for the 35-hour week. The statutory reduction in the work week (Robien Act and Aubry Acts) has dissolved most of the statutory and regulatory checks on the use of working time (work day and work week span, regular hours of work and weekly or annual time off, night work and shift work, ...). But a century of labour struggles had won not only a reduction in working time, but more particularly a lifting of the employer's absolute discretion over their employees' use of their time. Work intensification is part and parcel of enforced working time flexibility. How can non-unionized groups of employees hope to oppose enforced working time flexibility, whose ill effects on personal and family health are established beyond all doubt ?

The fourth and final reason why unions have and are still keeping their silence is that while job insecurity is legitimized politically by the successful dogma that monetary growth is the be-all and end-all of societal development, its social and cultural legitimacy is rooted in the balance of power and domination in the workplace. These are reflected in the social organization of work and give insights into the social genesis of health inequalities in and through work. The way in which the gender division of labour has influenced working time management is a case in point. Part-time work has been a key instrument of enforced flexibility and deregulation of working time. 20 years ahead of the Aubry Acts, it led to women working shorter hours for less pay. It is legitimized by women's (not women and men's) putative "need" to balance family and work: housework (done by women) being naturally unpaid. Part-time work was foisted on women without pay bargaining. Other forms of casualisation also point up the extent of the process and its in-built gender bias. While women are concentrated in part-time work, in France, temping and manual work are predominantly male (75% and 80%, respectively), while short-term jobs (temporary and fixed-term contracts) account for over 80% of new recruitment. There is one line of unskilled work where jobs are being created and in which women are concentrated (65%) : that is industrial cleaning, where often ethnic community men and women contingent workers are exploited in

conditions of modern slave labour. Between 1993 and 1998, 41 000 jobs were created in France in this subcontract sector, which now employs 265 000 people (INSEE figures).

The instrumentalisation of prevention agencies

The prevention agencies are either not appropriate to this context - as with the labour inspectorate - or made the instruments of a "human resources" management policy essentially based on selection by health. The European debate around the possible use of genetic testing in occupational health is indicative of this instrumentalisation process and the return to the eugenicist tradition of French occupational health in particular. But beyond that, the new genetic paradigm foreshadows a shift in prevention practice by putting in place checks on high-risk workers instead methods for controlling and eliminating the risks themselves.

Conclusion

The present situation is summoning into existence new balancing forces in the field of occupational health, in the form of networks based on cooperation between trade unions and a grass-roots movement of occupational accident victims and support organizations, as well as cooperation between victims, the lay public, trade unionists and occupational health professionals and researchers. The European WHIN Network and the International Ban Asbestos Network are cases in point.

Developing opposition forces requires research and action at multiple levels. Firstly, to analyse in very practical terms the different aspects of this challenge to occupational health by identifying its root causes. That requires an industrial sector rather than individual workplace focus. The case of asbestos shows that in research and developing activist networks - building cooperation between trade unionists, voluntary organizations and researchers, men and women in all countries - we should not be afraid to focus on a specific problem through which to clearly identify in practical terms and in detail the social processes at work in occupational health generally. Taking the asbestos ban in Europe forward and getting compensation for loss is a way to challenge the strategies of multinational corporations in Asia, Latin America and Africa. Finally, forging the link between the two ends of a production process is the only way to dispel the illusion that the changes foisted on us in the name of the "new economy" are inevitable and to re-build ties of solidarity with which to counter free-market sophistry.

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