Non standard employment and the outsider/insider divide: regulating for inclusive labour markets.

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Outline

• Non standard employment, gender and the insider/outsider debates
• Trends in labour market segmentation in Europe
• Lessons from segmentation theory, gender and regulation analysis
• Reforming regulation-
  a) Disentangling the multiple functions of regulation
  b) Towards a reform agenda beyond the outside/insider debate
The Standard Employment Relationship and non standard employment

End to the SER (Stone and Arthurs, Vosko, Standing, Fudge, Sennett, Peck)

SER association with male bread-winner model- and thus non standard employment with female employment patterns (even if not the case in all countries)

New employment forms/relationships- part-time, temporary, zero hours, supply-chain outsourcing, unpaid internships, pseudo self-employment and erosion of rights associated with full-time permanent employment

New attention to relationship between paid work and unpaid work

Increasing gap between rewards for work and living cost requirements-normal for women but now applying to men as well-leading to state subsidies for low wage and non standard work
The costs of maintaining the SER: the insider/outsider debates

Mainstream
• SER enforced by regulation – this restricts entry and worsens conditions for outsiders - divide exacerbates uneven impact of recession
• Regulation particularly affects disadvantaged groups (women, young people etc) even when overall performance not affected

Non mainstream-
Political science – regulation protects median voter at expense of outsiders - risk of political extremism (Rueda, Standing)
Social policy - Labourist in sense of supporting median /average worker but antagonistic to interests of growing precariat (Standing) - workfare policies to reinforce coercion on precariat (Peck)
Feminist- SER- centric regulation excludes women/ fails to value care work (Fraser, Vosko, Fredman, Standing, Supiot)

Legal
• SER-regulation may not be sustainable (Stone and Arthurs, Freedland)
• SER- centric regulation for non standard workers recreates hierarchy - mainly affecting both women and migrants (Vosko, Fredman)
The future of the SER and insider/outsidder debates

Positive contributions

Highlights key deficiencies of current regulatory framework:

• lack of value attached to unpaid care work
• precariat deprived of social rights/reforms still leave some outside
• increasing problems in identifying the ‘employer’
• opportunities for employers to evade employment rights
• increasing coercion on precariat, welfare recipients and carers
• disenfranchisement of precariat from politics
The future of the SER and insider/outsider debates

Negative or dangerous elements

- feeds deregulation fever
- attributes causes of inequalities to insiders- not capital and the state
- legitimises equality through levelling down (e.g. public sector)
- misinterprets interests of outsiders- need protection from discrimination not more competition
- presumes gender relations takes the same form in all societies- women more insiders and trade unionists in some societies than others
- gives up on the possibility of regulations shaping employment practices/ reducing non standard employment
- places too much faith in a benign and all powerful state- question marks over both the intentions and the ability of the state to act in the interests of inclusion
Implications of recent trends

Not just of growth of precariat but also of polarisation–parallel race to bottom

Levelling down- but focused on less powerful (the lower educated- those with specific qualifications e.g. public sector)

Outsiders suffering due to cyclical factors/low job creation- leading to new forms of exploitation- e.g. unpaid youth labour

But
• Most in Europe still working under employment contract (full and part-time)
• Reform of labour market regulation will not resolve jobs crisis and is reducing protection for the least protected
• Outsiders and insiders share interests- e.g. women face double burden as both insiders (public sector) and outsiders (care givers)
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<tbody>
<tr>
<td>Employment rate 15-64</td>
<td>+0.3</td>
<td>-2.4</td>
<td>14.3</td>
<td>11.6</td>
<td>-2.7</td>
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<td>Unemployment rate</td>
<td>+1.9</td>
<td>+3</td>
<td>-1.3</td>
<td>-0.2</td>
<td>+1.1</td>
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<tr>
<td>Part-time employment rate</td>
<td>+0.9</td>
<td>+1.3</td>
<td>23.5</td>
<td>23.1</td>
<td>-0.4</td>
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<tr>
<td>Gender pay gap</td>
<td></td>
<td></td>
<td>17.3 (2008)</td>
<td>16.2</td>
<td>-1.1</td>
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Problems with ‘rejection’ of SER: lessons form segmentation theory, gender analysis and institutional theory

- Segmentation theory- importance of the employer as gatekeeper to employment, implementer of legal regulation, shaper of inequalities
- Gender analysis- valuing unpaid care important but progress most likely through employment change and welfare states -not voluntary change in households
- Institutional analysis- need for complementary interactions between regulation and other institutions such as trade unions- not a case of either or.

Need therefore to

- Keep focus on employers and employment relationship and find new ways to counter evasion of employment responsibilities
- Extend social rights by, where appropriate, delinking them from paid work relationships
- Support social actors/ social institutions to ensure effectiveness of more universal and inclusive regulation
Multiple functions of employment regulation

- Social protection/health
- Productive economy
- Stable economy
- Human rights
- Equality of opportunity
- Fair conditions of employment
- Income and employment security
- Voice
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<th>Objective</th>
<th>The insider/outsider problem</th>
<th>Inclusive reforms</th>
<th>Role of extended SER</th>
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<tr>
<td>Social protection/health</td>
<td>EXCLUSION OF NON STANDARD WORKERS AND CARERS</td>
<td>Disconnect access and contributions from employment status</td>
<td>Retain some income-related benefits e.g., pensions</td>
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<td>Individual income and employment security</td>
<td>NON STANDARD WORK OFTEN FAILS TO PROVIDE SECURITY OR ADEQUACY</td>
<td>High minimum floor applied also to subcontracts</td>
<td>Incentivise re-internalisation e.g. harmonise Protection/costs</td>
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<td>Voice</td>
<td>WORKERS/ SUBCONTRACTORS EXCLUDED</td>
<td>Rights for all at workplace/ across supply chain. Empower through transparency</td>
<td>Stakeholder rights for all workers in companies</td>
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<tr>
<td>Fair conditions of employment</td>
<td>DIFFERENTIATED CONDITIONS</td>
<td>Higher minimum floor including subcontracts. Workers to have due process rights.</td>
<td>Need new extended rights to assist inclusion - e.g. regular working time or equal pay for equal value for all (transparency)</td>
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<td>Equality of opportunity</td>
<td>LIMITED ACCESS FOR CARERS/</td>
<td>Second/third chance options</td>
<td>Employers as employment gatekeepers – reinforce and extend non discrimination/adjustment to needs</td>
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<td>DISADVANTAGED/INTERRUPTED</td>
<td>Adjustments for care at recruitment Paid leave for non employed</td>
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<td>CAREERS</td>
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<td>Human rights</td>
<td>LACK OF DIGNITY FOR CARERS/ PRECARIAT/ DISABLED</td>
<td>Reduce coercion on non employed to work/ quality care a precondition for carers</td>
<td>Employers to adjust to needs of carers/disabled. Dignity at work dependent on workplace practices</td>
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<td>Stable economy</td>
<td>INSIDERS PROTECTED IN DOWNTURN</td>
<td>Work sharing schemes to include non standard as well as standard</td>
<td>Employment protection reduces costs to the state/preserves skills/dampens cycle</td>
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<td>Productive economy</td>
<td>PRODUCTIVE POTENTIAL OF PRECARIAT UNDERDEVELOPED</td>
<td>Reduce incentives for short term work. Incentivise training for all/ accreditation of skills.</td>
<td>Re-incentivise longer term employment. Paid leave to reduce risks of loss of employment status.</td>
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<tr>
<td>Social policy</td>
<td>Reinforcement of employer responsibilities</td>
<td>Workers and citizens</td>
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<td>Separate health and core social protection from employment status</td>
<td>Hold employers to account across supply chain</td>
<td>Transparency in recruitment and pay to facilitate monitoring and bargaining</td>
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<td>Extend state support for carers</td>
<td>Set high minimum floors</td>
<td>Extend worker voice within supply chain</td>
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<td>Reduce coercion to work</td>
<td>Regulate contracting to meet minimum floors</td>
<td>Provide individual training accounts</td>
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<td>Quality care a precondition for requirement to work</td>
<td>Reduce incentives to fragmentation</td>
<td>Promote collective regulation</td>
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<td>Reduce incentives to non standard</td>
<td>Extend rights to employment access (employers to adjust to the individual’s needs)</td>
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<td>Promote collective regulation</td>
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<td>Require adjustments to needs of carers/ disabled</td>
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Conclusions

Problems of exclusion should not lead to ‘throwing baby out with the bathwater’

• Destruction of regulation is highly politically risky
• Still need to hold employers to account – employment gatekeepers and architects
• SER-type relationship still dominant in OECD – and still necessary for productive workplaces- trust/ commitment etc.
• Need to normalise non standard work within an extended flexible SER framework- may create new exclusionary boundaries but not the only issue

Need to recognise multiple functions of employment regulation

• Disconnect individual rights and protection from employment status where feasible, thereby revaluing unpaid care work
• Extend and protect SER-linked rights where possible

Action on three fronts – social policy, employer responsibilities, individual rights and collective action

• Aim to promote self sustaining institutional checks and balances
• Unwise to rely only on state-based minimum floors/protection in periods of recession and austerity.