



Work on Demand: Contracting for Work
in a Changing Economy

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‘Embedded Racialisation’: Racial Hierarchies in the Construction of Labour Markets and Precarity - Presented by *Diamond Ashiagbor (Kent)*

The Political Economy of Labour Law Reform: Regulating Platform Work in Italy and the UK - Presented by *Alessio Bertolini (Glasgow)*

Regulatory Arbitrage, Labour Commodification and the Neoliberal State - Presented by *Manoj Dias-Abey (Bristol)*

Contract and Status at Work: Markets, Servants and Fiefdoms - Presented by *Ruth Dukes (Glasgow) and Wolfgang Streeck (MPI for the Study of Societies)*

Modalities of Work in the Tourism and Catering Sector in Greece - Presented by *Gregoris Ioannou (Glasgow)*

Law and Legalties at Work: the Role of the HR Profession as Producers and Transmitters of Legal Ideology - Presented by *Eleanor Kirk (Glasgow)*

Swimming against the tide? The challenge of implementing inclusive return-to-work schemes in a neo-workfare state - Presented by *Miguel Martinez Lucio and Mat Johnson (Manchester)*; Co-authors: *Laura Watt, Damian Grimshaw*

Gig work as a manifestation of short termism – the sustainability problem? - Presented by *Tonia Novitz (Bristol)*

Workplace change and institutional experimentalism: A case of service work in Europe - Presented by *Valeria Pulignano (KU Leuven)*; Co-Authors: *Paul Thompson (University of Stirling) and Nadja Doerflinger (KU Leuven)*

Data analytics, employment laws, and industrial organization - Presented by *Brishen Rogers (Temple, Georgetown)*

Before the Gig Economy: UK employment policy and the casual labour problem - Presented by *Noel Witheside (Warwick)*

‘Embedded Racialisation’: Racial Hierarchies in the Construction of Labour Markets and Precarity

Presented by Diamond Ashiagbor (Kent)

This paper explores the interaction between labour regulation and social welfare law, and their impact on racialised precarious workers in the UK. The broader conceptual framing for this enquiry draws on economic sociology of law, in taking sociological approaches to legal and economic phenomena, in particular, the role of law and social structure (ethnicity and migration status) in the construction of labour markets and insecure work in the UK. The focus will be on teasing out what might be called ‘embedded racialisation’, i.e. how ESL can help us to better understand the gender and racial hierarchies encoded in labour markets and the disproportionate representation of minority ethnic workers in precarious work and low-paid sectors. This will in part entail a historicising of economic sociology of law, to understand the interconnections between racial inequalities in the contemporary labour market, in particular the racialised ‘clustering’ into zero hours contracts, agency work, casual work and low paid self-employment, and the colonial/post-colonial history of economic interactions between the UK and countries of the global South.

The Political Economy of Labour Law Reform: Regulating Platform Work in Italy and the UK

Presented by Alessio Bertolini (Glasgow)

In the past few years, the platform economy has emerged as one of the most ‘disrupting’ phenomena in the labour market, putting to question older ways of organising work and of managing employment relationships. Across the board, policy actors and stakeholders have reacted by initiating a process of adaptation of national labour law frameworks to the new forms of employment and contract for work. Nevertheless, this process has been far from homogenous across countries, as pre-existing employment-related institutional frameworks –*labour constitutions* – have continued to shape the strategies and responses of different policy actors and stakeholders in different ways. Using semi-structured interviews with relevant stakeholders in addition to documentary analysis, this paper explores the ongoing process of legal adaptation in two countries characterised by very different employment law frameworks, industrial relations and policy preferences: Italy and the UK. It shows how the differences in these institutional variables can explain the strikingly different responses of actors to the question of

labour law reform in respect of platform work and argues that they are likely to influence the unfolding reform process in years to come.

Regulatory Arbitrage, Labour Commodification and the Neoliberal State

Presented by Manoj Dias-Abey (Bristol)

Labour markets are characterised by buyers contracting with sellers of labour-power to exchange wages for work. However, using the labour market as an analytical category risks underplaying what is distinctive about capitalist labour markets. Under capitalism, employers are constantly on the lookout for ways to extract greater surplus value from their workers at the point of production. Understanding a range of phenomena, such as the impact of labour migration on domestic labour markets, requires being attentive to the devices used by employers to further commodify labour. This paper will explore specifically the role played by ‘regulatory arbitrage’, which includes both basic regulatory evasion (e.g. misclassifying an ‘employee’ as ‘self-employed’) and steps taken by employers to exploit differences in national regulatory regimes (e.g. relocating production overseas). In more recent times, where relocating production overseas is not feasible, employers have looked to trade regimes (e.g. posted workers) and temporary labour programmes to benefit from the international patchwork of employment regulation (whilst the latter often requires workers to be treated no less favourably than locals, employers can wield the threat of deportation to obtain the same ends). What is distinctive about these recent developments is the facilitative role played by states. The re-election of the Conservative government in the UK potentially heralds a new phase in states working jointly with employers to enable regulatory arbitrage. The UK has already moved to introduce a ‘pilot’ temporary labour programme for the agricultural sector, and in 2019, Prime Minister Johnson announced plans to create a series of ‘free ports’ around the UK which would allow firms to import goods and then re-export them outside ordinary legal rules. This paper seeks to answer two questions: (1) how does regulatory arbitrage result in the greater commodification of labour; and (2) how have states actively participated in this process.

Contract and Status at Work: Markets, Servants and Fiefdoms

Presented by Ruth Dukes (Glasgow) and Wolfgang Streeck (MPI for the Study of Societies)

This paper revisits the notions of contract and status found in classical sociology and, to a lesser extent, industrial sociology and the sociology of work. It explores the usefulness of the

distinction in analysing current trends in the regulation of working relations, including the emergence and spread of ‘gig’ or platform-mediated work. Taking guidance from Karl Polanyi’s characterisation of the self-regulating market as a utopian ideal, the paper argues that regulation of a working relation by means of a contract of sale, work being exchanged for money, may similarly be understood as a utopian ideal: elements of status must always be present if the work is to be performed and paid for as the parties require it. Claims to the contrary – for example, that the gig economy creates a labour market without search frictions and only minimal transaction costs: contracts without status – assume an undersocialized model of (monadic) social action that has no basis in the reality of social life (Durkheim).

Like Polanyi's notion of the countermovement, status may come in a variety of forms that are more or less desirable from the perspective of workers, businesses, society at large: servitude, industrial citizenship, membership of a particular profession or occupation. At the end of the twentieth century, sociologists observed the beginnings of trends towards the bifurcation of workers into two groups – core (with relatively well-paid and secure employment) and peripheral (low-paid and insecure) – identifying therein a significant challenge to the status of industrial citizenship (Gorz; Streeck). Twenty years later, gross inequalities of wealth and conceptions of the neo-liberal self as ever-improving, ever-perfectible, are combining to create novel forms of status not anticipated by the literature. For example, well-paid (core) workers now employ (peripheral) others directly, not only to provide ‘domestic’ services, widely understood, but as a kind of private staff at work, helping to complete duties and tasks, which ostensibly comprise a single job for a single employee. With reference to the contract/status distinction, the paper develops a conceptual framework to assist with understanding such developments and their consequences, including the challenges posed to existing systems of labour law.

Modalities of Work in the Tourism and Catering Sector in Greece

Presented by Gregoris Ioannou (Glasgow)

This paper inquires how employment in the tourism and catering sector in post crisis Greece has been affected by the changed legal context, focusing on the experience of young workers in various settings and locales. Adopting a socio-legal perspective it examines how the tourism and catering labour market is structured and what terms and conditions of employment prevail. Despite the sectoral collective agreement in hotels and the national minimum wage, which was decreased and made statutory during the crisis years, constituting the basic regulatory

mechanisms across the board, there is significant variation in how workers are contracted to work in the sector. Across a background of a largely universal national law and a uniform institutional background, the observed diversity in the mode of work cannot be explained merely by reference to market forces and state policy. Several other factors need to be taken into consideration, which when combined with market forces can deregulate as well re-regulate the field of employment and which tend to be informal, locally embedded and socially mediated. By constructing a simple matrix of settings based on locale and seasonality on the one axis and type of establishment and size on the other the paper reflects on the role and significance of national law, the extent of its applicability and avoidance and how this combines with or is constrained by social dynamics within and outwith the market in shaping contracts for work.

Law and Legalities at Work: the Role of the HR Profession as Producers and Transmitters of Legal Ideology

Presented by Eleanor Kirk (Glasgow)

In this paper, I present the culmination of close to two years of work on the role of the HR profession in constructing legality at work. Previous conceptual papers have made the case for the need to explore legal consciousness in relation to employment relations, particularly in light of ‘juridification’, and specifically, the under-researched role of HR professionals, and their institutional bodies such as the CIPD in the UK. Dukes and Kirk (2020) explored how employment protection rights are implemented by HR professionals, while being sublimated by other norms and forces most notably, marketized discourses. Boltanski and Chiapello (2018) have described managerial discourses as the transmitter par excellence of *The New Spirit of Capitalism*, offering justification for, and outmoding critiques of, the existing order. Dukes and Kirk began to explore the interstices between HRMism and both discourses of rights and, more solidly, applicable law in relation to wider societal legal consciousness, i.e. the construction of legality generally, and norms regarding work, employment and justice more specifically. Here, I illustrate these processes with freshly gathered empirical data from ethnographic interviews and analysis of the discourses of HRMism and the CIPD.

Swimming against the tide? The challenge of implementing inclusive return-to-work schemes in a neo-workfare state

Presented by Miguel Martinez Lucio and Mat Johnson (Manchester)

Co-authors: Laura Watt, Damian Grimshaw

Despite the spread of Active Labour Market Policies (ALMPs) over recent decades, there remains variation both between and within countries in respect of the design, ethos and implementation of such interventions. Through an in-depth case study of an ALMP in a deprived post-industrial region of the UK, we reveal the tensions that arise when local actors seek to move away from an embedded paradigm of coercive workfare. Through interviews with commissioners, managers and workers within the programme we find evidence of the weak conditionality, high levels of professional autonomy and network control that are characteristic of the French model of ‘insertion’. However, we argue that in the UK, these ambitions to deliver intensive support to enable clients to transition into sustainable high-quality jobs are compromised by ambiguities around new professional roles, a lack of deep networks in local labour markets, and the low expectations around entry level jobs generated by previous forms of labour market intervention by the state. In effect, these forms of state intervention are therefore ambiguous and caught between different and competing organisational roles and labour market related actors.

Gig work as a manifestation of short termism – the sustainability problem?

Presented by Tonia Novitz (Bristol)

There are some interesting studies of gig work which link these intermittent and insecure working practices to a particular manifestation of short termism in contemporary capitalism (e.g. Flanagan, 2019; and Stanford, 2017). This is achieved by a legal framework which appears to prioritise individual contractual notions of consent at the expense of more durable constitutional values. My aim in this paper will be to juxtapose the idea of ‘sustainability’ with current acceptance of short term ‘flexibility’ in work on demand (as evident in the UK Taylor Review <https://www.gov.uk/government/publications/good-work-the-taylor-review-of-modern-working-practices> and on the international stage in the World Bank World Development Report 2019: The Changing Nature of Work <https://openknowledge.worldbank.org/handle/10986/30435>). My aim would be to consider the rhetorical commitment to durable protection of the people, planet and prosperity in the 2015 UN Sustainable Development Goals (SDGs), and its potential implications for regulation of work. In this context, the compromises made in drafting the SDG 8 targets and the European Pillar of Social Rights 2018 will be examined.

Workplace change and institutional experimentalism: A case of service work in Europe

Presented by Valeria Pulignano (KU Leuven)

Co-Authors: Paul Thompson (University of Stirling) and Nadja Doerflinger (KU Leuven)

This article examines institutional experimentalism by coupling capitalist dynamics of accumulation, embracing the adoption of new digital technology within the labour process, and institutional settings. Our inductive qualitative case study within the service (logistics) sector in Europe sheds light on the processes through which local actors engage in workplace change through institutional experimentation. It also illustrates how, and it identifies the conditions under which, unions can likely act as political agents of transformation, being able to influence work and employment at the workplace.

Data analytics, employment laws, and industrial organization

Presented by Brishen Rogers (Temple, Georgetown)

This paper, a chapter from a forthcoming monograph, will discuss the relationship among new data-driven technologies, labor and employment laws, and emerging forms of industrial organization. It argues that under existing laws and institutions, the revolution in data generation and analysis is encouraging major low-wage employers to alter their operations in two somewhat contradictory ways. First, to expand to national or global scale quickly by exploiting network effects, first-mover advantages, and exclusive rights in data on to production strategies and operation, thereby concentrating control over broad swaths of the economy in fewer hands. Second, to utilize a variety of legal strategies including outsourcing, subcontracting, franchising, and independent contracting for nearly all their line-level employees, thereby subjecting workers to intense labor market competition, and ensuring diffuse responsibility for working conditions. This coexistence of centralized control and diffuse responsibility—or monopsony power at the core but intense market competition in the periphery—is characteristic of major low-wage sectors today including retail, food services, building services, and logistics. These developments are enabled and facilitated by the basic rules governing the employment relationship, privacy laws, and antitrust and corporate law doctrines. Highlighting the deep legal constitution of such production strategies illustrates the potential for alternative forms of industrial organization in these sectors which could have different distributive implications. Doing so also further illustrates that novel forms of industrial organization are jointly determined by law and technological developments.

Before the Gig Economy: UK employment policy and the casual labour problem

Presented by Noel Witheside (Warwick)

In recent decades, jobs on offer in Britain have been transformed as permanent full-time employment has declined and precarious, irregular task-based work increased, trends actively supported by governments of all political stripes. Work is promoted as the sole route out of poverty. Such attitudes present as a volte face to policies promoted in the early twentieth century, when social investigation exposed irregular employment as a cause of poverty, not its cure, and as the main source of rising social dependency. The UK's earliest labour market policies sought to eradicate casual work and to encourage permanent employment – policies promoted assiduously for most of the twentieth century. Using historical evidence to explore proposals under discussion before the first world war, this paper makes three salient points. First, job insecurity and irregular employment exacerbate social inequalities, thereby raising the cost of social support (in spite of official efforts to contain it). Second, such developments undermine public trust – employers evade legal obligations for task-based workers while social security regulations require job-seekers to take such work. Finally, multiple job-holding and unstable employment destroy labour market categories on which policy analysis and the law rely. Thanks to the opposition of both sides of industry, the liberal British state has never been able to exert as much control over employment as governments in continental Europe. However, reverting to late nineteenth century labour markets will revive old problems and not offer any solution to new ones.