Employment Security in Europe and Canada: A Review of Recent Legislation in Three Countries

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Abstract

With the internationalization of economic activity most OECD countries have promoted neo-liberal structural reforms. It has been argued that employment creation could only occur where labour market flexibility prevailed. This would mean that employer's rights should be extended at the expense of employee's security. This paper investigates in relation to employment security in Germany, the United Kingdom and Canada how significant the expansion of certain types of non-standard employment (i.e. temporary and part-time work) has been. It also compares employment security in these countries by using objective indicators to capture this phenomenon.

I would like to thank Sukti Dasgupta for her constructive comments and help on a previous draft.

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Abbreviations

BMA	*Bundesamt für Arbeit und Sozial Ordnung* (Federal Ministry of Employment, Germany)
CPP	Canadian Pension Plan
DGB	*Deutscher Gewerkschaftsbund* (German Trade Union Federation and Social Order)
DTI	Department of Trade and Industry
GATT	General Agreement on Tariffs and Trade
HDRC	Human Development Resources Canada
ICFTU	International Confederation of Free Trade Unions
NAFTA	North American Free Trade Agreement
NDP	New Democratic Party, Canada
NIDL	New International Division of Labour
NLRB	National Labour Relations Board
OECD	Organization of Economic Co-operation and Development
OFL	Ontario Federation of Labour, Canada
SFL	Saskatchewan Federation of Labour, Canada
SPD	German Social Democratic Party
TNC	Transnational Corporations
TUC	Trade Union Congress

1. Introduction

The growing interdependence of countries through trade liberalization and the formation of a NIDL (New International Division of Labour) has changed the scope for regulation of employment and labour standards. Before the onset of the structural crises in 1973-1975, Keynesian demand management in the Golden Age from 1945 to 1973, primarily succeeded in promoting as a self perpetuating cycle of full employment, labour market regulation, mass production, consumption of standardized goods, welfare provision and tripartite social dialogue (governments, trade unions, employers). In recent years, these Keynesian policies have been abandoned and reforms introduced on welfare retrenchment, labour market flexibility, public expenditure to attract investment by the highly mobile transnational corporation (TNC), trade liberalization, and corporate tax incentives. The state's role is restricted to providing those social and public services international capital deems essential, at the lowest possible cost (Hirst et al., 1996, p.176).

This transition towards more flexible post Fordist forms of service sector accumulation has resulted in considerable changes affecting the national mode of regulation. Deindustrialization and deunionization in advanced countries, has meant that employment creation has taken place mainly in the service sector. Moreover, work reorganization and flexibilization (eg. "Just In Time" production) giving rise to non-standard forms of employment. These developments appear to be inevitable, irreversible and desirable for sustaining economic growth. Much debate exists over whether governments are merely responsive to such pressures or are themselves deliberately defining the agenda.

This paper examines how employment security legislation is responding to international trade liberalization. The expansion of non-standard employment forms (i.e. temporary and part-time employment) in Germany, the United Kingdom and Canada are examined, in the light of objective indicators of employment. Finally, a review of legislation reveals tendencies in these three countries. The diverse modes of regulation in these countries reflect different policy preferences as well as national outcomes. In reviewing developments in the various countries data from Eurostat and OECD will be harnessed.

2. Trade liberalization and employment security

The impact of trade liberalization on employment security has distinct decisional, distributional and structural consequences for developed economies. For its supporters, free trade is a fragile creation, its benefits poorly understood by policy makers and the public at large, its existence under constant threat by protectionist groups (Held et al., 1999, pp.182-183). Although there is no evidence to suggest that welfare provision and employment security harm trade performance, employers resist increases in social security contributions and demand reductions in worker's employment security in order to be competitive. Consequently, global trade has contradictory effects: it increases the demands made on the welfare state, while eroding the political support for it (Held et al., 1999, p.184).

The World Trade Organization (WTO) has emerged as the regulatory institution for international trade. However, the question of linking international trade with international labour standards, as indicated by core labour standards has aroused much controversy. Table 1 shows the number of countries who have ratified the relevant conventions. While developing countries oppose the insertion of social clauses into trade treaties, advanced states complain that the maintenance of sub-standard labour practices creates unfair comparative advantage and undermined employment security of their labour force. At the

WTO Ministerial Conference in Seattle (November 1999) led the Clinton administration to insist, against developing countries objections, on the inclusion of rules on labour standards in future trade deals, something many protesters also demanded. As Khor (2000) pointed out, this confirmed the worst fears of developing countries that the WTO was tilted against them by the big powers. On the other hand, Toress (1996, p.10) argued that even if developing countries decided to increasingly comply with international labour standards (i.e. via increasing minimum wages, improving working and employment conditions), there would still remain the problem of maintaining their comparative advantage.

Table 1. Total ratifications of core conventions by 174 members of the ILO as of 9 June 1999

Conventions	Ratifications
Freedom of Association and Protection of the Right to Organize Convention, 1948 (No.87)	124
Right to Organize and Collective Bargaining Convention, 1930 (No.29)	141
Forced Labour Convention, 1930 (No.29)	150
Abolition of Forced Labour Convention, 1957 (No.105)	140
Discrimination (Employment and Occupation) Convention, 1958 (No.111)	137
Equal Remuneration Convention, 1951 (No.100)	140
Minimum Age Convention, 1973 (No. 138)	77

Source: ILO, 1999b.

The North American Free Trade Agreement (NAFTA) is an example of the effects of trade liberalization on employment, demonstrating that this encourages employers to resort to the employment at will (hire and fire) concept and promote lay offs (ILO 2000b, pp.355-360).

The economy of the United States of America created 20.7 million jobs between 1992 and 1999 and all of those gains were explained by growth in domestic consumption, investment, and government spending (Scott, 2001). However, NAFTA eliminated 766,030 actual and potential jobs in the United States of America between 1994 and 2000 (Scott, 2001, pp.3-11). Thus, NAFTA and other sources of growing trade deficits were responsible for a change in the composition of employment, shifting workers from manufacturing to other sectors and frequently, from good jobs to low quality, low-pay work. New jobs for displaced workers were likely to be in the service industry, the source of 99 per cent of net new jobs created in the United States of America since 1989 (Mishel et al. 2001, p. 169).

In this general context, it is useful to explain the relevance and measurement of employment security and then to review on the basis of objective indicators changes in employment security in relation to the expansion of non-standard employment (i.e. temporary, fixed term and part-time employees) in Germany, the United Kingdom and Canada.

3. Employment security in Germany, United Kingdom and Canada

3.1 The relevance and measurement of employment security

Employment security has been the subject of much debate between advocates and opponents of greater labour market flexibilities. In this respect it is essential to explain what

employment security constitutes, and how has it been affected by the changes occurring at the international level.

Employment security, along with other forms of security such as income, work, job, skills, and representation security has formed the bedrock of social protection and labour regulation in the post-war era thus reinforcing the welfare state until the onset of the 1970's structural crises (Standing, 1999).

In most developed OECD countries, statutory and legal protection has been extended; employment security meant protection against arbitrary dismissal, the imposition of costs on employers (or on the state) for abrogating that right and for making workers redundant, and the provision of benefits for unemployment (Standing, 1999, p.167). Many countries extended protection against unfair dismissals to criteria such as gender, race, nationality, social origin, disability, political opinion, religious conviction, trade union membership and activity, pregnancy, taking maternity or parental leave, etc (ILOb, 2000). For enforcement purposes, most advanced industrial countries have developed legal frameworks, thereby providing procedural regulations for channelling complaints through labour courts, labour relations boards or industrial courts or commissions.

However, amid deindustrialization and growing unemployment, flexibility has developed primarily in response to employer's demands for contractual flexibility, elastic working times (allowing rapid adjustment to demand and "just in time" production), wage flexibility and flexibility in work organization through flexible specialization and multi tasking. This has resulted in the expansion of precarious forms of employment (e.g. temporary workers, part-time workers, workers on call, temporary help agency workers, contract workers, independent contractors). The repercussions of this development raise the questions as to how desirable flexibility is since many workers do not enjoy offsetting security of employer's investment in training and skill development (Dasgupta, 2001).

In order to assess how employment security has developed, objective indicators are necessary. Behavioural, contractual and governance indicators at the macro level provide a more comprehensive means of measurement. The first indicator entails using a) average employment duration and b) the employment retention rate, while the second considers non-standard employment in relation to total employment. The last involves the strictness and extent of national employment protection legislation (Dasgupta, 2001).

However, one should bear in mind that beyond the objective indicators it is much more difficult to capture and measure the subjective dimension of employment security (Dasgupta, 2001; Standing, 1999). This is especially apparent in the measurement of actual and perceived insecurities (through household or labour force surveys), which are subject to variations in personal expectations about employment availability, employment conditions, and dismissal or the threat thereof. As pointed out by both authors, one may have an income-generating job, but due to high levels of unemployment still feel insecure about losing the job one has; or conversely not feel insecure at all about loosing a job if one expects to attain a new job thereafter. Likewise, if one considers having one may not necessarily report that one feels insecure with seasonal, short term or fixed term employment because this may be preferable to having no job at all. One should still retain caution, by noting that, not all non-permanent jobs are irregular or precarious.

3.2 Behavioural indicators of employment security

If one considers employment security to be dependent on employment stability, then reviewing the cases of Germany, the United Kingdom and Canada on the basis of the average length of employment can give an indication of the degree of employment security. Table 2 shows that in Germany and the United Kingdom, the majority of employees in both countries still retain the same jobs for 5 years or more, while a significant number work less

than 5 years, 40 per cent in Germany and 48 per cent in the United Kingdom. A significantly higher proportion of Canadian workers (58 per cent) were employed less than 5 years. Judging from that it appeared that employment security was lower in Canada and the United Kingdom, due to service sector expansion and more labour market flexibility. However conclusions have to be drawn with caution. It is important to recognize that the comparability of this data was considerably affected by the inclusion of Canada's family workers and the self-employed while the same did not apply to Germany or the United Kingdom. This means that differences between the United Kingdom and Germany would even be more significant if these categories were included.

Table 2. Distribution of job tenures for full time workers aged 15 years and older (per cent)[1]

Country	Full time employees (%)		
	Less than 1 year	1 year to under 5 years	5 years or more
Germany	13	27	59
The United Kingdom	19	29	53
Canada	24	34	42

Source: Adapted from OECD, June 1999, p. 27.

However, Heisz et al. (1998) question the assertion that the expansion of Canada's service sector has resulted in a lower level of employment security, by referring to a Labour force survey for the period 1976-1996 and the Longitudinal Worker file from 1978-1995. The permanent lay off rate from 1978-1993 was lower in services than in manufacturing. Between 1981 and 1996 average job duration was highest in public services (67 months), followed by distributive services (56 months), business services (52 months), manufacturing (50 months), consumer services (32 months) and the primary and construction industries (22 months). Likewise, after the economic recession in Canada (1991-1992), from 1993 until 1996 employment duration increased, especially for manufacturing by 24 per cent, for business by 21 per cent and for consumer services by 15 per cent. This makes it clear that there is no automatic correlation between service sector expansion and declining employment security levels and that in comparing employment tenure distinctions between employment sectors are crucial. If so how do contractual conditions affect employment security?

3.3 Contractual indicators of employment security

Variations in the duration and nature of contracts is also indicative of changes in employment security. In all but three of the 14 European countries shown in figure 1, temporary employment has increased since 1985. This is especially so in the case of the United Kingdom where temporary employment increased by 30 per cent between 1992 and 1996 (OECD 1998c, Guest et al., 1998). On the other hand available labour force data, and literature on the matter suggested that the matter was more complex.

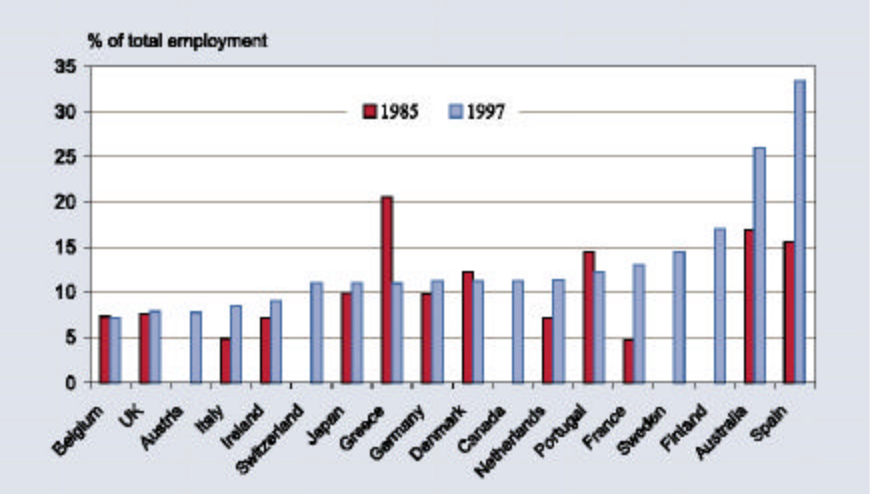
In spite of a high non response rate among German and to a lesser extent UK respondents,[2] results derived from Eurostat's Annual Labour Force Survey on reasons given for choosing temporary work, were indicative of substantial differences in employees' expectations of their employment conditions, which reflected levels of perceived employment insecurity. For example, the number of people who could not find a

[1] Note: For Canada the self employed and unpaid family workers are included. Job tenures are not specified in accordance to retaining the same job or being employed by the same employee.

[2] Note: Comparable survey results for Canadian temporary employees were not available.

permanent job compared with those who did not want a job and those eligible for training under their contracts can be taken as an indicator of people's attitudes towards temporary work.

Figure 1. Temporary work in OECD countries



Source: OECD, 1999, p. 146

From the survey results for the years 1992, 1995 and 2000 it appears that divergences in attitudes and expectations remained fairly significant and consistent over time. Table 3 indicates that, in spite of the high non response rate among Germans in relation to United Kingdom respondents, about 7 times as many German respondents claimed that the possibility of contractual training was a reason for seeking temporary employment, suggesting differences in the quality and opportunities within temporary employment. In contrast, in the UK the opposite was the case where it appeared that temporary employment (in spite of the lack of training) was the last resort after unsuccessful attempts at finding permanent employment or even preferred, by over a quarter of respondents, to permanent employment. Additionally, this may also allude to a lack of particular professional qualifications, which affected their access to particular permanent full time jobs (OECD, 1998a).

Table 3. Reasons for accepting temporary work, Germany and United Kingdom, 1992-2000

Germany	Germany		United Kingdom	
Reasons	1992	1995	1992	1995
Contract covering period of training	37.0			38.0
Could not find a permanent job	-			-
Did not want a permanent job	-			-
Contract for probationary period	-			-
No reason given	63.0			62.0
Total	100.0			100.0
United Kingdom				
Reasons	1992	1995	1992	1995
Contract covering period of training	5.0			5.3
Could not find a permanent job	37.0			44.5
Did not want a permanent job	27.4			27.3
Contract for probationary period	-			-
No reason given	30.5			22.9
Total	100.0			100.0

Source: Eurostat, 1992 and 1995.

Differences in national perceptions and expectations were reinforced by survey results for the year 2000, based on responses by age group. As indicated in Table 4, for the age group of 15-24 years results confirmed preceding hypothesis that the availability and attractiveness of training was a reason for selecting temporary employment. Within this group, German responses (77.9 per cent) again highlighted its importance followed by the opportunity of having a probationary period (5.2 per cent), whereas United Kingdom respondents' views primarily showed that a greater number preferred temporary rather than permanent employment (37.9 per cent versus 26.0 per cent).

Table 4. Reasons for accepting temporary work by age group, Germany and United Kingdom, 2000

Year 2000		Germany	United Kingdom
Reasons: 15-24 years		51.1	30.4
	Contract for training	77.9	9.2
	Could not find a permanent job	3.0	26.0
	Did not want a permanent job	1.3	37.9
	Contract for probationary period	5.2	-
	No reason given	12.7	26.9
25-49 years		41.7	52.1
	Contract for training	14.2	6.4
	Could not find a permanent job	19.1	36.3
	Did not want a permanent job	3.3	24.5
	Contract for probationary period	18.2	-
	No reason given	45.2	32.9
50-64 years		7.3	17.5
	Contract for training	-	-
	Could not find a permanent job	30.9	36.2
	Did not want a permanent job	3.8	-
	Contract for probationary period	8.9	
	No reason given	54.5	33.9

Source: Eurostat, 2000.

On the other hand the reverse was true in the United Kingdom for the 25 to 49 age group: while 24.5 per cent claimed that they did not want a permanent job, 36.3 per cent indicated that no permanent job was available.

In Germany, temporary employment represented for many employees not merely a means through which unemployment could be avoided but rather a transition towards a permanent position within the company that initially hired them (Galais et al., 2001). This did not apply to the United Kingdom, given the higher percentage of those seeking permanent employment. The survey results, in so far as they were representative of temporary workers, demonstrated that employment security in Germany and the United Kingdom not only depended on the length of the contract but also on available training opportunities and expectations, and the experience of finding permanent employment.

3.4 Governance indicators: reform of employment protection legislation in Germany, the United Kingdom and Canada

On the other hand, how effective have governance indicators (employment protection legislation) been in addressing the growth of part-time work (as another form of non-standard employment)? Before investigating the implications of reforms made to

employment protection legislation on part-time work, it is essential to examine the relevance of claims made by the OECD that unemployment is the result of stringent employment protection laws in member countries. The OECD argued that durable unemployment reductions were possible, and that policies to this end should be pursued vigorously in the years to come. Integral to that aim was the reform of employment security provisions that inhibit the expansion of employment in the private sector (OECD, 1998a, pp.21-22). Reducing employment security was perceived to be acceptable and necessary for stimulating long run employment creation, especially in small and medium sized companies (less than 500 employees). In exchange for employment security, OECD member states were urged to promote tax reforms, which reduced taxation of low skilled low wage jobs together with the provision of greater income security through minimum wages.

Cazes et al. (1999) reviewed changes in employment protection in terms of how employment protection legislation (EPL) related to labour market performance adjustments, in terms of costs and productivity increases. This study concluded that EPL coverage of non-standard employment in Germany, the United Kingdom and Canada was mainly insufficient. Through identifying correlations, it highlighted the extent to which the reduction or removal of hiring and firing regulations, the adoption of shorter notice periods, the reduction of severance pay and extension of qualifying periods for making claims against unfair dismissal took place. Out of 18 countries surveyed, Germany ranked 6th, the United Kingdom ranked 14th and Canada was 15th. Canada, with 1.3 months notice period compared to Germany and the United Kingdom provided the least employment protection (table 5). Moreover, in contrast to the United Kingdom and Canada, full time and fixed term workers in Germany enjoyed substantially more employment protection (hence the 12.0 rate vs. 2.3 for the United Kingdom and 1.7 for Canada).

Table 5. Strictness of employment protection legislation

	Maximum pay and notice period in months (1993)	OECD (1989)*	International Organization of Employers (IOE) (1985)**
Country			
Germany	4.5	12.0	2.5
United Kingdom	6.0	2.3	0.5
Canada	1.3	1.7	0.6

* Applies to regular and fixed term workers.
** The average of the IOE scoring of obstacles to dismissal or use of regular and fixed term workers, see OECD 1994 for details.
Source: Cazes et. al., 1999.

Overall, between 1985 and 1993 Germany retained, in spite of changes made to labour legislation, higher levels of employment protection than either the United Kingdom or Canada. Moreover, where employment stringency is higher so too is employment tenure: In this respect, table 6 shows that in average employment duration in Germany compared to the 7.8 years in the United Kingdom and Canada still remained higher at 9.7 years. Likewise, if one examines the second column, then it also appears that Germany provides the greatest degree of employment security, the highest rate for employment of less than one year was in Canada 23.5, whereas in the United Kingdom this was 19.6 and 16.1 per cent in Germany. Moreover as far as employment tenure is concerned, Cazes et al. show that where employment stringency is higher so too is employment tenure.

Table 6. Tenure length distributions of existing jobs

Country	< 1 year	> 10 years	Average, all jobs
Germany 1995	16.1	35.4	9.7
United Kingdom 1995	19.6	26.7	7.8
Canada 1991	23.5	N/A	7.8

Source: Eurostat, OECD.

Table 7 shows that provisions and coverage under employment protection legislation vary considerably between Germany, the United Kingdom and Canada (ILO, 2000). While under the Canadian Labour Code only federal employees were protected against unfair dismissal and entitled to notice periods and severance pay, Germany and United Kingdom legislation is broader in scope. In Germany and the United Kingdom, all employees were covered by employment legislation, but with differences pertaining to qualifying periods for severance pay, notice requirements and appeal procedures against unfair dismissal.

Table 7. Employment protection law in Germany, United Kingdom and Canada

Countries	Main features of Employment Protection Law
Germany	*Kuendigungsschutzgesetz* (Protection Against Dismissal Act) (1969, revised 1996): (All employees) 1) Protection against dismissal on grounds of sex, origin, race, language, national origin, colour, creed, religious and political beliefs, trade union membership, industrial action, marital status, sexual orientation, age, pregnancy, completing military or community services, disability, taking parental leave. Protection is based on socially unjustified dismissal. Employers are obliged to provide burden of proof. 2) Dismissals permitted if obligations are breached, plant regulations or collateral contractual obligations are violated, through economic necessity for rationalization or operational reasons. 3) Notice: If employed less than 2 years = 4 weeks, between 2 5 years = 1 month, 5-10 years = 2 months, 10 – 20 years = 4 months, more than 20 years = 4 months. 4) Severance pay: Must be paid equal to 1 year of employment. Beyond the age of 50 and where 20 years of employment apply, an employee is entitled to 18 months of severance pay. 5) Employees can appeal against unfair dismissal after 1 week to works councils and, if necessary after 3 weeks of receiving notification of dismissal, to a Labour court for a final ruling.
United Kingdom	Employment Relations Act (1999): (Full time and part-time employees) 1) Protection against dismissal on grounds of pregnancy, trade union membership or activity, race, sex, refusal to belong to a trade union, disability, marriage, employ ee's occupational and health concerns, refusal to work Sundays, being trustees of pension schemes, completing voluntary military service or taking parental leave. Workers with fixed term contracts cannot waive their rights for unfair dismissal. 2) Dismissal permitted if approved by the Industrial Tribunal. 3) Notice: 1 week if continuously employed for less than 2 years; 1 week for each year of continuous employment if period is between 2 and 12 years; 12 weeks if continuously employed for 12 or more years. 4) Severance pay: Pegged to the retail price index: ½ weeks pay for each year the employee was below the age of 41, 1 weeks pay for each year the employee was below the age of age of 21, and ½ weeks for each year not falling into these categories. Maximum is £205. 5) Only after 2 years of uninterrupted employment can an appeal against unfair dismissal be made to the Industrial Tribunal.
Canada	Canada Labour Code (1992) and Canada Labour Standards Act: (Federal employees only) 1) Protection against dismissal from employment on grounds of an employee giving information on his / her condition of employment / occupational health, pregnancy, illness or injury or trade union membership. 2) Dismissal permitted for chronic absenteeism, drug abuse, sexual harassment, fraud and theft, dishonesty, incompetence, disruption of corporate culture. 3) Notice: Minimum notice periods of 2 weeks (individual) and 4 weeks for group dismissals (min.50 employees). 4) Severance pay: Equal to 2 days of wages for each year of employment, or 5 days for each year of service, provided the employee has completed 12 months of continuous employment. 5) Appeals against unjustified dismissal can be made to the Canada Labour Relations Board (not later than 90 days after dismissal), non-unionized employees or those not covered by collective agreements must also submit complaints to inspectors on the board. For collective dismissals and arbitrator must be appointed

Sources: Department of Justice Canada 1992; ILO, 2000, pp. 91–94, 155-160, 347-353; DTI, 1999; BMA, 1969.

In this context it is important to bear in mind that divergent levels of access to collective agreements have an impact on the extent of protection among the non-agricultural workforce of Germany, the United Kingdom and Canada. Hence, as indicated in Table 8, it is apparent that in Germany almost the entire workforce is covered by collective agreements (90.0 per cent, compared to the far lower levels in the United Kingdom (25.6 per cent) and Canada (37.0 per cent), which corresponds to better employment protection (ILO, 1998).

Table 8. Collective bargaining coverage rates in Germany, the United Kingdom and Canada

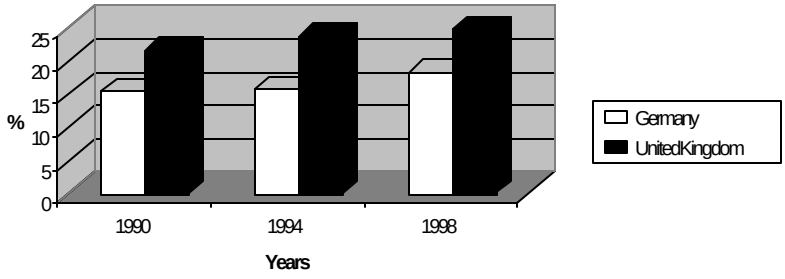
Country	Year	Proportion of employees covered by collective agreements (%)
Germany	1996	90.0
United Kingdom	1994	25.6
Canada	1996	37.0

Source: ILO, 1998.

3.5 Part-time work and employment protection in Germany, the United Kingdom and Canada

With the adoption of the neo-liberal agenda, part-time work has become an increasingly important factor in sustaining job creation and reducing or combating unemployment in the European Union of the 1990´s.

Figure 2. Part-time employment in Germany and the United Kingdom



Source: European Commission, 1999.

Some 6 per cent of men in employment in the European Union and around 33 per cent of women worked part-time in 1998, both figures higher than in 1997 reflecting the growth of part-time jobs for men as well as women (European Commission 1999, pp.33-34).

Between 1990 and 1998, part-time employment in Germany grew from 15.5 per cent to 18.3 per cent whilst in the United Kingdom the level was higher at 21.7 per cent in 1990 and 24.9 per cent in 1998. Although it might be assumed that, due to relatively high unemployment levels in the European Union, most part-time work is involuntary, in fact the opposite is the case. According to Eurostat`s Labour Force Survey, only a minority of 20 per cent of respondents in both Germany and the United Kingdom (as against more than 40 per cent in France, Finland and Italy), claimed that they could not find full time jobs and were compelled to take up part-time work (Eurostat, 1998, p.120).

It is against these developments that the European Commission decided to address the growth of part-time employment, by regulating minimum standards for European

Union (EU) member states. On December 15th 1997 the Council of Labour and Social Affairs Ministers unanimously adopted a directive for the implementation of a framework agreement. Accordingly Germany and the United Kingdom transposed the directive's provisions into national law. Part-time workers were to be treated in the same way as comparable full time workers, (to facilitate the development of part-time work on a voluntary basis and to promote working time flexibility). The provisions fell short of explicitly restraining employer's right to dismiss part-time employees on invalid grounds, thus also preventing part-time workers from accessing some benefits (EU, 1997, p.5).

Germany

With the political and economic unification of Germany underway, unemployment soared to unprecedented levels after 1990. On the one hand, this can be explained by the impact of structural adjustment policies in the Eastern half of unified Germany; on the other, it can be attributed to the sluggish pace of labour market flexiblization in the whole country, under the centre right Kohl Government, unemployment rose from 7.6 per cent in 1988 to 10.7 per cent in 1998 (United Nations, 1999). Even worse, in spite of the use of publicly funded *ABM Massnahmen* (active labour market policies) unemployment remained persistently higher in the East than in the West (on average 15 per cent). On the other hand the growth of real GDP between 1990-1998 only amounted to 1.4 per cent on average per annum (United Nations 1999, p. 20), insufficient to reinvigorating a stagnant economy and promoting employment creation on the scale necessary. With the election of the Social Democrats under Gerhard Schroeder in 1998 combating unemployment became the primary challenge for the new Federal Government (Schroeder, 1998, p.1). Alluding further to the necessity of work reorganization, the Chancellor emphasized, "the people want secure employment from which they can adequately live. This is only possible when we agree on more intelligent ways of reorganizing work". Within the tripartite *Buendniss fuer Arbeit, Ausbildung und Wettbewerb* (Alliance for jobs, training and competitiveness) framework (involving the Federal Government, the employers organization and the trade union federation), negotiations were underway to reform social security (including health, pensions, unemployment) and the tax system.

In this spirit the Federal Government aimed to contain the exploitation of part-time employment, visible in employers exemption from social security contributions, by making such contributions mandatory as from April 1st 1999. Central to improving part-time workers' employment conditions has been concern over their lack of social protection in general rather than employment security. Through a press statement the Federal Ministry of Employment and Social Order (*Bundesamt für Arbeit und Sozial Ordnung BMA*) noted that the reform of the Employment Conditions Law (24.03.1999) would aim to regulate part-time work, making social security contributions by employers and employees mandatory, so that part-time workers would have access to old age pensions, health insurance, and unemployment insurance. Accordingly, part-time employment below 630 DM remains non-taxable, while employers were compelled below the 630 DM ceiling to contribute a 10 per cent basic rate for health insurance and a 12 per cent rate for pension insurance of their employees.

Although the German Trade Union Federation (*Deutscher Gewerkschaftsbund DGB*) generally approved of the reform's success in eliminating unfair competitive advantages for those employers who had so far benefited from exemption, it however criticized the German Social Democratic Party (SPD) - Green coalition government for compelling part-time workers to pay the full old age pensions contribution (of 7.5 per cent), without allowing them to pay less. This would create disincentives for part-time workers, while the need to protect them against unjustified dismissals still remained a pressing issue. In terms of extending coverage, the DGB urged the Government to revise the earnings threshold downward so that, more part-time employers would fall under the law (DGB, 1998b).

Moreover the DGB critically commented that without fully extending the protective provisions of the employment protection law (*Kuendigungsschutzgesetz*) to part-time workers unfair dismissal practices by employers would continue. According to evidence, as soon as part-time workers, making use of their legal entitlement, claim the continuation of income payments during illness, or paid vacation leave they were threatened with dismissal (often in small enterprises). A study commissioned by State Governments of Lower Saxony, North Rhine Westphalia and Saxony on the regulatory implications of the law confirmed this (DGB, 1998a.).

According to this study, immediately after the law's implementation between April - May 1999 employers reacted by increasing dismissals, which peaked at 1.4 million. Even Germany's rather extensive provisions on socially unjustified dismissals and entitlements to severance, failed to counter this arbitrary measure by employers. However, in spite of hostility from the employers' organizations, enterprise groups and the parliamentary opposition (the Conservative Christian Democratic Union and the Christian Social Union Liberal Democratic parties), the Government succeeded in containing the number of marginal part-time workers below the 630 Dm threshold (which increased between 1997 and 1999 from 5.6 million to 6.5 million workers).

The complete effect of the reform will only be known when the Federal Government releases a report on its implications on the labour market, social insurance and public finances on 31.03 2003. The SPD-Green Government will still need to reform employment protection coverage, so that that all disadvantages of part-time employees pertaining to remuneration, classification, dismissals, career development and training possibilities are eradicated (DGB, 1997). Germany appears to have made a first step in the right direction; many more are and will be necessary.

The United Kingdom

As Cressey et al. (1993, p.63) argue, most EU labour market regulation was likely to have a disproportionate effect in the United Kingdom as the result of 18 years of free-market experimentation under successive Conservative Governments. During the 18 years of labour market reforms and welfare retrenchment, part-time work, became an attractive way for United Kingdom employers to create new employment, because it met their prerogative for wage and contractual flexibility. Following the recession in 1991-1992, the United Kingdom has experienced 8 years of unrestrained economic expansion: with real GDP grew between 1991 - 1998 on average at 1.8 per cent per annum with a peak of 4.3 per cent in 1994. Unlike Germany, unemployment decreased from 8.8 per cent in 1991 to 6.5 per cent in 1999 (United Nations, 1999, pp. 20-23). With its landslide election victory in 1997, Tony Blair's New Labour Government raised public expectations and pledged to put back a human face on capitalism and an honour commitments made at the Luxembourg Employment Summit (1997). Against the Trade Union Congress's (TUC) objection New Labour maintained policies of the previous Governments on public expenditure restraint. However, unlike the Conservatives, New Labour embarked upon active labour market policies in the nation-wide adoption of the New Deal programme for young people and of workfare schemes to counter unemployment, rather than relying on the invisible hand of the market. A bundle of legislative reforms were passed after 1997 which affected part-time work, such as introducing the UK's first ever Minimum Wage Law (1998), the enactment of the Employment Relations Act (1999), the reduction of the qualifying period of employment for protection against unfair dismissal and the reform of the statutory consultation procedure on redundancies and transfers.

Against the opposition of employer's organizations and the Conservatives, the Government implemented new regulations (July 1st 2000) on part-time employment and rights. According to the Secretary of State for Trade and Industry, Stephen Byers "Part-time work is a vital part of both the modern workplace and the modern economy. It is

essential that part-time work is properly valued and rewarded. The government is strongly committed to promoting the status and flexibility of part-time work and providing minimum standards (Byers, 2000). According to the Department of Trade and Industry (DTI) the main objective of legislation was to prevent part-time workers being treated less favourably than full time workers (DTI, 2000a). Thus equal treatment could directly benefit 400,000 part-time employees through increases in pay and non-wage benefits (DTI, 2000b). The DTI also stressed that through this regulation other vulnerable members of the workforce, such as agency workers, who had hitherto remained excluded from any employment protection, would also be affected. As a result of the legislative reform, part-time workers would receive equal pay and also be entitled to the same hourly rate comparable to full time workers.

Alongside the passing of national minimum wage legislation,[3] this would enhance income security of part timers according to the Government concerning contractual maternity and sick pay as well as occupational pensions and holiday entitlements it was emphasized that the benefits that a full-timer receives must also apply to part timers pro rata. Employers should not exclude part-time staff from training simply because they work part-time. Maternity and parental leave should be available to part timers in the same way as for comparable full-timers, as should be. Career break schemes should be available to part-time workers in the same way as for comparable full-timers. The only exception would be if different treatment were objectively justified on grounds other than their part-time status (DTI, 2000a, pp. 1-3).

New Labour's Part-Time Workers (Prevention of Less Favourable Treatment) Regulations 2000[4] was only a starting point but not a solution for extending the rights of part timers to employment security. The regulations under section 7 "Unfair dismissal and the right not to be subjected to detriment", stress that a part-time employee shall be regarded as being unfairly dismissed, if the reasons for dismissals comply with those contained in Part X of the Employment Rights Act of 1996 or paragraph 3 of the Part-time Regulations (on protecting employees transfers from full time to par time status). Subsection 3 for example specified further conditions, which constituted unfair dismissal, among which these are crucial "that the worker has either alleged that the employer had infringed these regulations; or refused (or proposed to refuse) to forgo a right conferred on him by these regulation".

Although the TUC has accepted the expansion of part-time jobs as a fact of economic life, it questioned the lack of quality part-time work still entails, even where reforms are underway. On the basis of the Response to DTI Consultation on the Implementation of Part-time Work Directive the TUC was less optimistic and more sceptical about the government's view that dismissal on invalid grounds would be contained through legislative reforms (TUC, 2000, p.7). The TUC maintained that, among other shortcomings of the implementation of the legislation, the use of the term employee instead of worker, excluded as many as 500,000 part-time workers. The narrow tests of comparability excluded the majority of part-time workers who worked in segregated part-time only grades, with no comparable full-time workers, placing the burden of proof on the employee. This in the TUC's opinion did not comply with Clause 5 (2) of the framework agreement

[3] Note: The United Kingdom's national minimum wage is set at £3.75 pounds an hour and has been subject to much criticism from the TUC, which asserted that at a higher minimum wage (of approximately £5) would not have infringed the UK's competitiveness. Since it inception the national minimum wage has been already upgraded by 10 pence, from £3.65 an hour to its current rate of £3.75 per hour and been hailed by the New Labour administration as a substantial income guaranteeing measure. The TUC however continues to remain at loggerheads with the government over this matter and demands further revisions.

[4] Statutory Instrument 2000 NO.1551, pp.1-17, emanating from the DTI's Part-Time Workers Draft Regulations (DTI, 2000b).

on part-time work (EU, 1997), providing for protection against dismissal. Moreover according to the TUC the law was flawed because it contravened the Part-time work's directive definition of part-time worker, which also resulted in the exclusion of pieceworkers, paid by reference to their production and not by the hours spent at work.

In terms of these inconsistencies and especially with regard to part-time workers' employment security, the TUC argued that revisions were necessary. This would mean, that dismissal of part-time workers would have to be considered as an event that gives rise to a claim by incorporating the definition stated in Section 95 of The Employment Rights Act (TUC, 2000). Likewise in relation to section 7 of the Part-Time Work Regulation the TUC complained that only dismissals on the grounds of transferring from a full time to a part-time employment status were considered. The reverse case where a part timer was dismissed due to his or her refusal to transfer to full time employment was excluded.

In spite of these shortcomings only after some months, if not years, will the Government be able to review the situation of part-time workers security anew to see if any positive outcomes, in the form of greater employment protection, taken place.

Canada

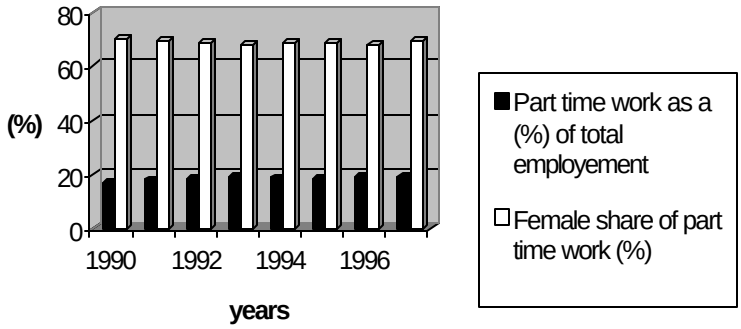
In light of these developments, it is essential to direct attention towards Canada's approach to extending employment security to a chronically insecure section of its labour force. Canada in comparison with the United States developed a more comprehensive system of publicly financed social security and its brand of federalism has given the provinces more decision making authority over education, and social policy than, for instance, in Germany. While the American health care system failed to provide coverage to all Americans, under Canada's universal system all citizens were entitled to coverage (Francis, 1995).

Notwithstanding these differences, Canada amid its growing involvement in NAFTA has not only implemented neo-liberal reforms, which have spurred economic growth and labour market flexibility, but also reduced the public deficit, through cutting federal - provincial health / social expenditure transfers from 16.6 per cent (1993) to 12.6 per cent (1999) of the GDP share, (*The Economist*, 1999, p.6). Between 1991 and 1998 Canadian GDP growth exceeded the United Kingdom and Germany's rates, averaging 2.1 per cent from 1991to 1998 (United Nations 1999, p.20), while unemployment declined from a high of 10.4 per cent in 1991 to 7.7 per cent (United Nations 1999, p.23).

Consequently, part-time work expanded. Its share of total employment as evident from Figure 2, increased from 17 per cent in 1990 to 19 per cent in 1997, while the female share of part-time employment declined slightly in the same period from 70.1 to 69.7 per cent (ILO, 1999a, p. 141). In this regard Deacon (1997,p.79) has pointed out that this development was reinforced by Canada's involvement in NAFTA, which resulted in a downward harmonization of Canadian labour and employment standards.

Notwithstanding NAFTA's implications on the development of the Canadian labour market, the Human Resources Development Canada (HRDC) has emphasized, employment security is fundamentally important for accessing social benefits, because the chances of being entitled to extended health, dental, and pension benefits through an employer are three to six times greater for permanent and full time workers than non- permanent and part-time workers when the effects of other factors, including job tenure, age, education, industry and occupation, are considered (HDRC, 1998, p.2).

Figure 3. Part-time work in Canada: 1990-1997



Source: ILO, 1999a, p.140.

Reaffirming inequalities in accessing benefits, Lipsett et al. (1997) showed that unions and full time employees have substantially more access than non-unionized and part-time workers (table 9). High turnover rates among part-time workers and short employment tenure rates hampered their ability to obtain employer sponsored benefits.

Table 9. Job related employee benefits and average wages by job characteristics, Canada 1995

	Pension plan other than CPP / QPP	Health plan other than provisional health care	Dental plan	Paid sick leave	Paid vacation leave	Average hourly wage
Full time	58.4	63.4	63.4	65.7	81.9	$ 15.95
Part-time	18.7	15.9	15.9	17.8	29.9	$ 10.54
Union	81.1	82.8	75.9	77.0	84.2	$ 17.93
Non union	33.0	44.4	41.9	44.8	65.3	$ 12.94

Source: Human Resources Development Canada, 1997.

Most Canadian employees, with the exception of federal employees, are largely unaffected by protective clauses on dismissal or by entitlement to severance pay. Even where the Liberal Federal Government decided to implement reforms to the existing federal social security legislation, the impact on part-time workers was not significant in terms of enhancing their employment security. Canada's reformed Employment Insurance (1995-1996) covering access to maternity, parental, sickness leave and the Pension Plan (1998) did not, as envisaged by HDRC, extend coverage to part-time workers. Although the HDRC claimed the EI would reinforce the link between contributions and increase part-time workers' access to EI benefits (via compliance with a 15 hours weekly threshold), the anticipated outcome was not met. On the contrary, the number of employment insurance beneficiaries declined sharply after the reform's implementation. Especially among women and youth under the age of 25, the number of beneficiaries fell by 20 per cent and 16 per cent, whereas for the middle age groups this was 8 per cent. In relation to low levels of job related benefits among part-time workers, it appeared that women and youth (who made up two thirds of part-time workers) remained in a disadvantageous position even after the reform. The HRDC acknowledged that in practice women and youth, in spite of the reform, could not accumulate the necessary number of hours to become eligible for EI benefits under the new legislation.

In its Employment Insurance Monitoring and Assessment Report the HDRC conceded, that while the reform was expected to substantially enhance the number of beneficiaries, the actual number of beneficiaries declined from 2.13 million in the 12 months prior to reform to1.82 million in the 12 months after the reform (HRDC, 1997, p.2).

Amendments made under the Canada Pension Plan (1998) demonstrated certain flaws. Although the main objective according to the HRDC was to guarantee that the Canada Pension Plan would be there for all Canadians in the future, the Government failed to explicitly incorporate part-time workers needs for entitlement. The enlargement of the reserve fund, complemented by a new investment policy for securing returns and by increases in employee and employer contributions, was a viable solution, but only for full time employees. This then implies that only under provincial jurisdiction and regulation could employment protection be extended, if at all. With the exception of the New Democratic Party (NDP)[5] governed provinces (i.e. British Columbia and Saskatchewan), most other provinces have introduced rather restrictive amendments to labour or employment standards legislation in the last 5-10 years.

In a report for the World Trade Organization (WTO) General Council Review of the Trade Policies of Canada, the International Confederation of Free Trade Unions (ICFTU) argues that this problem is compounded by Canada's low level of ratified ILO conventions. Further measures were needed in order to comply fully with the commitments Canada accepted at Singapore in 1996 and Geneva 1998 in the WTO Ministerial Declarations and in the ILO Declaration on Fundamental Principles and the Rights at Work adopted in June 1999 (ICFTU, 1999b, p.1). Moreover, the ICFTU (1999a) criticizes Canada's commitment to already ratified ILO conventions on the Freedom of Association and Protection of the Right to Organize Convention (No. 87, 1948) and Right to Organize and Collective Bargaining Convention (No.98, 1949), for being ambiguous when its record on enforcing employment protection is considered. Furthermore, the report argued that employment security was linked to representation security, thus one cannot exist without the other.

In this context, the ICFTU pointed out that in Canada's economic powerhouse, Ontario, the Conservative Harris Government has systematically resorted to restraining employees' rights to remain or become members of trade unions. This was especially the case since 1994 when in 1995 under the Ontario Labour Relations and Employment Statute Law Amendments certain professional groups (i.e. domestic workers, agricultural workers, service contract workers, food service workers etc) virtually had their organising, collective bargaining rights and agreements nullified (ICFTU, 1999a, pp.1-3).

In another attempt, through the application of the Hospital Labour Disputes Arbitration Act, hospital employees have been threatened with dismissal if they strike, and the arbitration process has been altered to accordingly. Even in 1999 the Ontario Government struck a more devastating blow to employee's employment protection, by implementing an Act to Prevent Unionization. If part-time employees became unemployed by law they were required to take part in community participation (workfare-compulsory work as a condition for receiving benefits) and in return abandon trade union activities. As the ICFTU (1999) pointed out this sharply contravened Canada's commitment to certain ILO conventions. Likewise, the ICFTU demonstrated that a MacDonald's branch in Montreal-St Hubert preferably chose to shut down its operations altogether via collective dismissals rather than recognising the formation of a trade union (ICFTU, 1999a).

Ontario's reformed Employment Standards Act (2000) did little to dispel such criticisms. Reforms concerning part-time work; granting 10 days of job protected family crises leave, an anti-reprisal provision relating to unfair dismissal and higher fines for non compliance by corporations, and expanding working time flexibility for employees and employers and public holidays.

[5] Note: The NDP is a left of centre party with a social democratic agenda, and though mainly confined to the provincial level in terms of influence, it has since the late 1960's compelled the L.B Pearson (1963-1968) and P. Trudeau (1968-1984) Liberal administrations to implement at the federal level, progressive social legislation (i.e. the adoption of publicly funded universal old age pensions and medi-care).

In that sense the Conservative government only implemented through the reform a token amendment giving part-time workers access to paid public holidays. Although this entitled those, working 2 days a week to a paid public holiday, its effect clearly remained minimal. It did nothing to extend and secure access to paid vacation parental - maternity leave, nor was there any legal provision on equal remuneration. Likewise termination and severance conditions still primarily applied to employees who worked 5 years or more, thus excluding all part-time workers who did not have such employment tenure. It is equally doubtful that the Harris Government has any real interest to penalise corporations, for unfair dismissals. Therefore, only demanding as Minister Stockwell did that the definition of employee needed further review in light of new employment relationships and work arrangements was very unconvincing. As the OFL (2000) confirmed, instead of establishing the right of part-time and contingent workers to basic equality under the law, these workers are completely ignored. The evidence therefore makes Minister Stockwell's (2000, p.4) claim untenable that "all employees in Ontario are treated fairly and have access to basic rights and entitlements at work".

On the other hand, if one compares this approach to how the NDP government in Saskatchewan has dealt with part-time workers access to benefits and their employment protection, differences are apparent. According to the Saskatchewan's Ministry of Labour's Rights and Responsibilities Guide (2001), part-time workers are in principle permitted to make claims for benefit payments (such as the dental plans, group life, accidental death or dismemberment plans, prescription drug plans) provided they meet certain requirements:

- They must have been employed for 26 consecutive weeks and worked 390 hours in those 26 weeks.
- In order to maintain their eligibility they must work at least 780 hours in a calendar year.

In return for meeting these requirements, part-time workers who work between 15 hours and 30 hours a week are entitled to 50 per cent of the benefits provided to full time employees, while those who work more than 30 hours a week get 100 per cent. The Labour Standards Act provides that:

- (1) An employer shall give notice to employees of: (a) the time when work begins and ends over a period of at least one week; (b) where work is done in shifts, the time when each shift begins and ends; and (c) the time when a meal break begins and ends.

- (2) Subject to subsection (2.1), the notice required by subsection (1):(a) shall be in writing; and (b) may be given by posting notices in conspicuous places where employees have ready access to read the notices. (2.1) The notice required by subsection (1) need not be in writing or posted: (a) where posting the notice is impractical due to the small size of the employer's operation; or (b) in other cases, where written notice is impractical.

- (3) An employer shall give an employee at least one week's notice of a change in the employee's work schedule (Ministry of Labour, 1995).

However in reality, employers who wanted to avoid paying benefit payments often managed to circumvent their legal obligations, by having part-time employees work less than the required weekly hours. This in turn prevented them from qualifying for benefits or obtaining more hours of work.

Interviews conducted with Mr. David Broad (Researcher at the Social Policy Research Unit, University of Regina, Saskatchewan), Ms. Crofford (Minister of Labour of Saskatchewan's NDP government), Ms. Byers (Saskatchewan Federation of Labour: SFL)

and Mr. Jackson (Canadian Labour Congress), highlighted divergent views on whether the regulation and enforcement of working time had primacy over enhancing part-time workers' employment security or vice versa it general appeared that there was consensus that the European Union's Part-time Work Directive (1997) was a good and first step in providing minimum standards and extending part-time workers rights within EU member countries, and that it should be emulated in Saskatchewan.

Divergence existed primarily over how the plight of part-time workers could be improved (i.e. via legislative reform at the provincial / federal level or unionization among part-time workers).

- Ms. Crofford expressed the need for declaring "most available hours" provisions under the labour standards act (in order to avoid the qualifying trap), but conceded that government policy was constrained, because provinces competing on lowering standards were vulnerable to pressure from employers to quit or leave if their demands were not met. As she expressed it '…A province by province solution makes you very vulnerable to cherry picking by companies, and very vulnerable to all kinds of problems.' [6]

- Mr Broad in respect to minimum employment standards agreed and emphasized that only when '...Federal labour law superseded provincial law we could get more standardization throughout Canada. It's a matter of jurisdiction and federal authority is limited. '[7]

- However, Ms Byers still remained sceptical over whether working time regulations could be enforced, because employers continued to exercise control over part-time (especially women and youth) workers working time, by having them work irregular hours without laying them off, but depriving them of the '...minimum hours required for entitlement to benefit payments.' [8]

- Beyond statutory provision, Mr Jackson stressed that only through promoting access to collective agreements among part-time workers could their employment security be improved and employers be dissuaded from using irregular working hours. Hence, '...struggling for higher minimum standards and union organising is quite complementary – it is not one or the other.' [9]

4. Conclusion

Since the 1970's profit squeeze, there has been a growing demand by policy makers to abandon once beneficial Keynesian policies for promoting market exchange. Given the fact that unemployment soared at the time, employers increasingly pushed for labour market deregulation and welfare state retrenchment. Consequently since then most advanced OECD states have pursued to different degrees economic liberalization and social security reforms.

This paper examined the relevance of concepts underpinning these changes, such as social justice, liberalism and competitiveness, were examined. This highlighted how strongly arguments were shaped by ideological preferences and paradigms rather than

[6] Interview with Ms. Joanne Crawford, 28th of April 2000.

[7] Interview with Mr. David Broad, 26th April 2000.

[8] Interview with Ms. Barbara Byers, 21st of April 2000.

[9] Interview with Mr. Andrew Jackson, 27th of April 2000.

convincing reasons alone. International trade liberalization in developing and developed countries was identified as being a considerable constraint on improving employment security.

This however did not address how changes in employment security at the national level affected certain types of non-standard employment such as temporary and part-time work, and representation. Reviewing the applicability of objective (behavioural, contractual and governance) indicators in relation to employment security in Germany, the United Kingdom and Canada allowed the following observations:

- Behavioural indicators: Employment tenure for full time employees in Germany, the United Kingdom and Canada varied considerably. Although it was apparent that employment security was less comprehensive in Canada than Germany and the United Kingdom, the importance of differences between employment sectors had also to be taken into account.

- Contractual indicators: Results derived from Eurostat's annual Labour Force surveys highlighted the different reasons for choosing temporary work in Germany and the United Kingdom. In terms of employment security it was evident that these reasons reflected concern over the availability of training and the possibility of finding permanent employment. This in turn was reinforced by attitudinal differences between Germany and United Kingdom respondents in regard to how much employment insecurity was acceptable.

- Governance indicators: The legislation reviewed demonstrated that there was a need for extending employment protection of part-time work in Germany, the United Kingdom and Canada. Variations in the extent of employment protection coverage depended in Germany, on extending employment protection legislation; in the United Kingdom, on fully transposing the provisions of the EU directive and revising The Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000; and in Canada, on promoting unionization (access to collective agreements) among part-time workers in the absence of federal employment standards.

Above all the paper affirmed that improvements in employment security were more probable in Germany and the United Kingdom, while Canada's involvement in NAFTA, and the lack of national employment protection legislation suggested that employment insecurity would prevail more strongly.

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