

Flexible working in Germany

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The spread of low-wage, low skill, low value-adding jobs within the third sector has been well documented in liberal market economies such as the United Kingdom. It may be expected that Germany, characterised as a coordinated market economy (CME), wherein “interaction among firms and other actors [and] depend[s] more heavily on non-market relationships” (Hall and Soskice, 2001: 8), would have a different story to tell. However, the expansion of the German tertiary sector has opened the door to the increase of low wage, low skill jobs, similar to those in the UK. Furthermore, labour market deregulation and reforms to employment contracts have similarly had an impact on the experience of work in Germany, especially for women workers. This article considers the extent to which state reform and other changes in the labour market have contributed to the decline in traditional working relationships and altered the landscape of the German labour market.

Responding to external pressures

Akin to their Western counterparts, German companies are inextricably tied into the process of globalisation, liberalisation of financial markets, increasing labour market and organisational flexibility and various other transformational processes.

Nevertheless, it would be erroneous to presume that German companies are passive agencies, buffeted by external global factors. Rather, their actions both drive, and are driven by, the process of globalisation, the liberalisation of financial markets, increasing labour market and organisational flexibility. Whilst this is often said to increase competitiveness, the data are far from

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conclusive (see for example, Beyer and Höpner, 2004; Kitschelt and Streeck, 2004).

Contrary to traditional perspectives on Rheinisch capitalism, German organisations are increasingly disinvesting in training and banks have divested their former roles of supporting German industry (Vitols, 2003). Corporate restructuring and the introduction of new production methods have led to downsizing, flatter organisations and to the outsourcing of anything that appears to be non-value adding sections of organisations (Doellgast, 2009; Doellgast and Greer 2007).

Achieving flexibility

Achieving greater flexibility in the German workplace has been facilitated by labour market de-regulation; nevertheless the picture across the industrial sectors remains diverse. In traditional sectors, labour markets of German firms continue to be based upon full-time working contracts with high levels of job security, low labour turnover, continued investment in training, and mandatory social insurance (Bosch and Kalina, 2008). Internal labour markets offer protection to core employees of the company by shielding them against the harsher terms and conditions that exist in an external labour market (Doeringer and Piore, 1971). This notion of a standardised employment system, with its stable industrial relations, continued well into the 1970s as Germany maintained high productivity levels and high and stable rates of employment.

Consequently, the standard employment framework stands in stark contrast to non-standard work.

With the first signs of the economy slowing down at the beginning of the 1980s, the German government made the initial move towards deregulation in 1982, when the newly elected Kohl government aimed to reduce what it alleged was the rigidity of the labour market (Trinczek, 1995). Flexibility has continued to be a topic of debate for both management and labour ever since. In 1994, a new Working Time Act was passed; this may be perceived as a milestone in flexible working. This act made it possible for organisations within collective agreements to structure their own working hours.

But of course, flexibility is a double-edged sword for both labour and management – a fact that has led some to refer to ‘employer-friendly’, and ‘employee friendly’ types of

flexible working¹ (e.g. Fleetwood 2007: 389). Flexibility in the workplace is often believed to lead to a greater work-life balance (Croucher *et al.*, 2004). Yet, this is only the case when the employee obtains the type of flexibility that would enable this, for instance, term-time working for mothers. It is also likely that employees may be the victims of “passive” flexibility, whereby they are coerced into accepting certain working conditions by management in the name of flexibility, for example, annualised hours (Baret *et al.*, 2000).

Flexibility can also have a detrimental impact upon industrial relations. In the case of Germany, the quest for flexibility has led to a slow erosion of collective bargaining.

Collective bargaining agreements now typically contain clauses allowing Saturday working and variable working hours in order to reduce or decrease the

quantity of the workforce in times of high or low productivity, overtime or extended working hours. Agreements may be comprised of a mixture of provisions for working times; large organisations may have numerous flexible working arrangements to cover the various departments of their firm and the employment status of their workforce. Undercutting the provisions set out in collective agreements is carried out either unilaterally or in cooperation with works councils (Greer and Hauptmeier, 2008; Jacobi *et al.*, 1998, Tüselmann *et al.*, 2001).

¹ Types of atypical working may be characterised, on the one hand, as employee-friendly: flexi-time, part-time, term-time working, four and a half day weeks, job sharing, nine day fortnights. Employer-friendly forms of atypical work, on the other hand include: annualized hours, temporary work, zero hours contracts, various types of shift-working systems (typically involving unsocial hours). Finally, other forms may be ‘neutral’- e.g. flexi-time.

Under the Collective Bargaining Act, an opening clause (*Öffnungsklausel*) now allows for agreements to be negotiated with the works council and to fit the individual organisational needs (Silvia and Schroeder, 2007).

Hartz reforms

In 2002, the German government, pursuing a neo-liberal economic agenda, introduced the controversial Hartz Commission reforms. The reforms were said to be necessary to combat rising levels of unemployment and stagnation, on the (extremely contested) assumption that flexible labour markets will reduce unemployment and improve productivity.

The reforms were also a response to demands for enhanced flexibility from German business.

The reforms were also intended to increase the supply of labour and to provide an easy entry into the

labour market for groups who have been previously excluded – e.g. women, low-skilled workers and the over-fifties. In addition to this, unemployment benefits have been reduced and benefit-seekers made subject to rigorous means-testing.

The Hartz IV legislation has been responsible for the introduction of the 'one Euro job' (*Ein-Euro-Job*). Intended to assist the long-term unemployed back into the labour market, these jobs are taken to supplement unemployment benefit already received, but are not intended to be regular jobs. Hence, an aim of the one Euro job scheme is to test the extent to which the unemployed are willing to work. Benefits may be lost if a benefit-holder refuses to take a one Euro position. Hence, the Hartz Commission has been criticised for providing employers with the possibility to offer low wages.

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The type of work available must be temporary, be located within an area of public interest and should be created especially to be offered as a one Euro job. These parameters are intended to eliminate the possibility for employers to exploit cheap labour. A final condition of the one Euro job is that it should only be offered to benefit recipients if no other avenues are open to them, for example, training programmes.

As the name suggests, work is paid at a rate of around one Euro per hour and jobseekers may only work for up to thirty hours a week for a three to six month period (Tzortzis, 2004). The objective of the government is to decrease unemployment by offering the unemployed the incentive to find a job themselves which pays a higher rate (Tzortzis, 2004).

Despite the criticism levelled that one Euro jobs uphold the notion of a move towards a low-wage economy, the government

perceives the creation of these jobs as giving people an opportunity to re-enter the workforce and establish a working routine

The question of whether the creation of one Euro jobs reinforces certain groups as labour market outsiders, rather than provides entry to the inside, is debatable. Certainly, to date, the workfare programme has met with limited success. In the former Eastern states, there is limited evidence to suggest that experience of working in one Euro jobs has led to long-term employment (Hohmeyer, 2009). However, in former West Germany, employment opportunities begin to increase after two year's participation in the workfare programme (Hohmeyer, 2009). Whilst the latter finding indicates some positivity, it still emphasises that labour market outsiders should expect their position to remain unchanged for at least two years. This is far from encouraging.

For the skilled unemployed, a way back into work may be through placement with a temporary work agency. Despite the fact that temporary workers are perceived as being outside the regulated German labour market model, temporary work has been possible in Germany since the 1960s. Previously, the maximum period in which a firm could hire temporary labour was severely restricted by law in order to protect standard employment relationships. Between 1985 and 1994, the hiring period of temporary workers was extended from six to nine months. Since 1997, this period has been extended to one year under the Act on Temporary Employment Business (AÜG).

Temporary employment in Germany is based upon a legal relationship through which one organisation (the agency) lends another organisation (the hiring firm) a worker on a fixed temporary basis. Thus, the temporary worker's contract is with the agency and not with the firm which is hiring, despite the fact that, under this contract, the worker is obliged to carry out the instructions of the firm which is hiring. In previous times, since temporary workers were not employees of the firm, they were neither covered by collective bargaining agreements nor could they participate in works councils elections.

Additionally, temporary workers tend not to belong to a trade union and are difficult to unionise because there is high turnover of workers at the agencies. As a result, it is not surprising that trade unions are generally opposed to the hiring of temporary workers. Furthermore, unions oppose temporary contracts on the grounds that they create and reproduce poorly paid workers who tend to be hired for extremely short periods only and they are a threat to the pay and

conditions of permanent full-time workers (Bosch and Kalina, 2008). Finally, temporary work has a definite appeal: workers who have undertaken a number of temporary contracts with a particular organisation may be amongst those most likely to be hired on a permanent basis by the firm if a position becomes available.

Rise of low wage sector

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nonetheless, older unemployed workers, non-nationals and women to continue to experience difficulties in finding

work. To a certain extent, the picture is slowly changing as a result of the rise of a low wage economy in Germany, with the majority of new jobs being created in the catering, retail, social and other low-skill service sector jobs.

Aside from being low-paid and part-time, service sector occupations in, for example, retail, catering or hairdressing, typically offer the minimum of social or medical insurance. As Thelen (2009) indicates, "the safeguards that core workers in the German labour market enjoy are as strong as ever" (Thelen, 2009: 484). In the same way as temporary workers are failing to become integrated into German labour market, these service sector employees are least likely to be unionised and recourse to representation may be ineffective.

An associated issue is the lack of minimum wage in Germany. The objective of a statutory minimum wage is to offer protection to employees in low-wage, low-skill sectors. On the one hand, a minimum wage has always been staunchly opposed in Germany as unnecessary since wages tend to be typically collectively agreed. On the other hand, for low-skilled jobs within the service

sector, wages and minimum standards are not set by collective agreements. In fact, it is suggested only half of employees in retail and textile/clothing are covered by collective agreements and around one third in personal services, for example, hairdressing (Funk and Lesch, 2006). Despite the fact that collective agreements can be extended, this is, in practice, rarely done within low-paid industries in Germany (Funk and Lesch, 2006). In addition, since female workers tend to be over-represented in jobs within the tertiary sector which are not covered by collective agreements, another suggested function of statutory minimum wage, namely to eliminate gender pay gaps, also does not operate in their favour.

The case of female part timers

The experience of German females in flexible and part-time forms of work is an interesting case which highlights the paradox surrounding the German government's aim of increasing working opportunities, which simultaneously continues to exclude certain groups of society from full integration into the labour market.

German society remains underpinned by the male breadwinner model, with females leaving work when they become mothers, only to return when their children are older and, then, to take up part-time, lower paid jobs (Cousins, 1999; Gottfried, 1999; Yeandle, 1999). Even though females make up less than forty percent of the German workforce as a whole, almost sixty-five percent of all low-paid workers are women (Solow, 2008). The growth in part-time work since the mid 1990s can be explained by an increase in the number of women deciding to return to work (Cousins, 1999). Career gaps due to maternity leave and time taken off to care for children and/or other family members may have led to a decline in skills or, in some cases, to women having to

accept working roles which are inferior to their former positions. However, for many working mothers, part-time work is the only option; German schools typically finish at lunchtime, so many women only choose to work in the mornings in order to arrive home at a similar time as their children (Bosch and Kalina, 2008).

Part time work for women in Germany, then, can hardly be described as an unfettered choice. Whilst this model has its advantages, it continues to disenfranchise women part-timers for whom flexibility seems to offer little but low pay, poor pension and medical provision, as well as increasing their financial dependence upon their full-time (male) partner, and acting as a barrier to their further integration into the labour market.

Despite the fact that more and more German females are returning to part-time work after starting a family, low-paid work amongst women

began to rise from the early 2000s onwards. The increase in low paid work amongst part-time women followed the Hartz Commission's implementation of the mini-job (*geringfügige Beschäftigung*). The mini-job limits an employee's income to a maximum of four hundred Euros per month; however, the bonus effect of this mini-job is that there is neither tax nor social insurance to be paid (Winkel, 2004). For women with family responsibilities, mini-jobs are the most suitable types of work because these are tax exempt (Solow, 2008). Having said this, the employee will not be covered by medical insurance (*Krankenkasse*), nor do mini-jobs include pension contributions for the future. This means that female mini-jobbers gain their social security entitlements solely through their husband and his job, which, again, arguably adds to the endurance of the breadwinner model.

Conclusion

This article has briefly discussed German labour market de-regulation and the associated increase of flexible working, alongside the rise of the low-wage sector. This, it has been seen, has led to a continued fragmentation of the labour markets where the unemployed, the low-skilled and female workers are particularly excluded from securing jobs that carry collectively agreed wages and social benefits.

Certainly, the extent to which labour market reforms in Germany have increased the supply of labour and created jobs is debateable. Moreover, these negative unintended consequences, especially for part-time women, cannot be ignored. Consequently, since Germany continues to be characterised, particularly in business management literature, as a CME, it is insightful that a parallel may be drawn between working practices in the tertiary sector in the UK and in Germany.

What is interesting, nonetheless, is that drivers of flexible working are often presented as a kind of *deus ex machina*, in which external forces, unconnected to companies, somehow exert pressures on companies to introduce flexibility.

Regardless of how German companies are characterised, as discussed at the outset of this article, it is incorrect to suggest that the move towards flexibility is in some way incompatible with German organisational practices. Many of the larger German companies (especially MNCs and TNCs) continue to play a key causal role in the creation of globalisation and the neo-liberal agenda through the very introduction of de-regulation and a push towards flexible labour markets and organisations. In other words, established German economic and employment institutions are part and parcel of generating the pressures that are said to be coming from the external environment.

Consequently, labour market deregulation has been in response to what organisations want. Hence, the inevitable rise of the low-wage sector has developed alongside, with the associated implication of keeping the German labour market tightly closed off to certain groups, including women workers, despite intending to widen labour market participation.

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