

WHAT PRICE

*flexi***Bility?**

THE CASUALISATION OF WOMEN'S
EMPLOYMENT

URSULA HUVS ● JENNIFER HURSTFIELD ● RIKI HOLTMAAT

WHAT PRICE FLEXIBILITY?

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Ursula Huws, Jenny Hurstfield and Riki Holtmaat

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FOREWORD

In May, 1988, an unusual seminar was held at the University of Leiden in the Netherlands. Its subject was women and flexible work and it was organised jointly by Riki Holtmaat, a researcher in the university's law department and Jennifer Hurstfield, then a lecturer at the City of London Polytechnic who, during a year's secondment to the Low Pay Unit, had just completed a comparative study of part-time work in the UK, Sweden and the Netherlands.

A common interest in the growth of flexible forms of work and their impact on women, and the fact that these forms seemed particularly prevalent in Holland and Britain, led to the idea of a seminar with the twin objectives of comparing the experiences of 'flexible' women workers in these two countries and drawing up strategies for improving their position.

Partly for reasons of cost, and partly in order to ensure a tightly-focussed quality of debate, it was decided to limit the number of participants to ten from each country, and to try to ensure that these twenty participants covered between them as wide a range of knowledge and experience as possible. The selection process was by no means easy, and involved some very difficult choices, especially where a number of women were known to be working in similar fields.

However the final line-up fully justified this approach, incorporating a rich combination of scholarship, experience of trade union and community-based organising and political and legal expertise. A common commitment to working women cemented the group.

Apart from the unquantifiable benefits of new contacts, new ideas and an enriched understanding of the issues, there were several tangible outcomes from the seminar: articles in the Dutch and British press; a follow-up conference in Britain, organised by the Sheffield Low Pay Campaign and attended by about sixty people; and this booklet.

In planning the booklet we decided not to produce a conventional conference report. Although all the participants wrote excellent papers which were presented at the seminar, we felt that simply to reproduce them would be to ignore the ways in which the ideas originally presented in them were developed and enriched in the discussions which followed and to undervalue the conclusions which resulted from these discussions.

Another alternative would have been to publish an edited transcript of the proceedings. However it was felt that this too would be limiting. The composition of the group would inevitably give such a publication the tone of a private discussion amongst cognoscenti, assuming a background knowledge and using jargon which might not be familiar to all our readers.

Instead, we decided to try to produce a booklet which would serve as an introduction to the issues as well as presenting the conclusions of the seminar. It draws heavily on the papers presented at the conference, on a report of the seminar produced by Karim van Leeuwen and on tape recordings of the discussions. Unless otherwise stated, these are the source of all the quotations. However it is also, inevitably, coloured by our own particular experiences and analyses of flexible work. While there were enormous areas of consensus amongst the participants at the seminar, there were also some areas of difference. Where an issue is controversial, we have tried to indicate this in the text. However, for reasons of space, we cannot claim to have done justice to the complexities of the arguments in all cases. We hope that participants who feel that their ideas have been over-simplified, distorted or given insufficient space will forgive us, and agree that the interests of brevity, readability and accessibility sometimes have to take precedence. Apart from direct quotations, we would also like to exonerate the other participants from any inaccuracies in the text for which we take the entire responsibility. Lastly we would like to thank them for sharing their time and insight to generously.

The seminar would not have been possible without support from the Dutch Ministry of Social Affairs and Employment, the University of Leiden's Faculty of Law and its Department of Constitutional Law. We would like to express our gratitude to them for their generosity. We would also like to thank the Equal Opportunities Unit of the Commission of the European Communities and Empirica for providing the resources which made it possible for Ursula Huws to write this booklet.

Finally, we would like to thank two Leiden University law students, Karim van Leeuwen for her report on the conference and Ingrid Verbeek, who assisted her and one of their lecturers, Titia Loenen, who is based in the Women and Law Department and who volunteered invaluable assistance in the organisation of the seminar.

Ursula Huws

Jennifer Hurstfield

Riki Holtmaat

May, 1989

FULL LIST OF ATTENDANTS

from the Netherlands:

Titia Bos, a research officer with the FNV (the Dutch Federation of Trade Unions)

Marga Bruijn Hundt, a member of the Dutch Emancipation Council

Jeanette Dees, a training officer with the FNV

Chris d'Have, a project worker at the Hengelo Homeworkers' Centre

Riki Holtmaat, a researcher in the Women and Law Department at the University of Leiden

Brenda de Jong, formerly with the Dutch Women's Union, now the women's officer of the Industrial Union

Yvonne Konijn, a legal researcher at the University of Utrecht

Cisca de Koning, women's officer of the Food and Catering Union

Catelene Passchier, a lawyer now working for the FNV Women's Bureau

Maartje van Putten, a researcher in international labour relations at the Evert Vermeer Foundation

Hester de Vries, a legal researcher at the University of Amsterdam

from the United Kingdom:

Sheila Allen, professor of social and economic studies at the University of Bradford

Jane Foot, then a project worker with SCAT (Services to Community Action and Trade Unions) now an officer of the London Borough of Camden

Angela Galvin, then a project worker with the Sheffield Low Pay Campaign, now with the West Yorkshire Low Pay Unit

Bernadette Hillon, national women's officer of USDAW (Union of Shop, Distributive and Allied Workers)

Jennifer Hurstfield, then a social science lecturer at the City of London Polytechnic on secondment to the Low Pay Unit, now a research officer on *Equal Opportunities Review*

Inez McCormack, Northern Ireland organiser of NUPE (National Union of Public Employees)

Margaret Prosser, national women's officer of the TGWU (Transport and General Workers' Union)

Olive Robinson, a reader in labour economics at the University of Bath's School of Management

Carole Truman, research fellow at the University of Bradford's Department of Social and Economic Studies

These participants are quoted throughout the text of the booklet.

At the end of the seminar, there was a public debate in which members of the group were joined by Professor W. Albeda, former Minister of Social Affairs in Holland and now chair of the Dutch Government's Scientific Council, Lenie van Rijn, a Labour Party member of the Dutch Parliament, and Lodewijk de Wall, a national officer of the Dienstenbond FNV, the shopworkers' union.

WHAT IS FLEXIBILITY?

In discussions of employment, 'flexibility' must be one of the most over-used words in the late twentieth century vocabulary. On first encounter, it is an irresistibly attractive concept. As Sheila Allen asks, 'Who would prefer inflexibility over flexibility?' Yet the term is extremely imprecise. It can be used in many ways. There can, for instance, be flexibility in the disposition of working hours over a day, a week, a month or a year; there can be flexibility in the allocation of staff to tasks; there can be flexibility in the location of work; or in the method of payment; or in the type of contract.

But the imprecision of the term does not stop there. In each of these cases, it covers a deeper ambiguity: in whose interests is the flexibility operating? If we define flexibility as the freedom to rearrange matters to suit one's own needs, and recognise that there are two parties involved in most working arrangements - employer and worker - then it becomes obvious that unless the needs of these two parties are perfectly matched, the arrangement can only be truly flexible for one of them. In other words, underlying the notion of flexibility is another idea: that of control. In order to answer the question 'whose flexibility?' we need to know who is in control.

There may be a few situations, for instance where there are acute skill shortages, or where the workforce is well-organised in a trade union or professional association, where workers are in a position to dictate terms to their employers or clients and assure themselves a flexibility which meets their own needs, but these are extremely rare. It is far more common to find that it is the employer who calls the tune. Certainly the recent, copious literature on 'the flexible firm' is couched almost exclusively in terms which suggest that the flexibility proposed is intended to serve the needs of the employer.

A common model is that put forward by John Atkinson of the Institute of

Manpower Studies (Atkinson, J and Meager, N, *New Forms of Work Organisation: IMS Report No 121*, Institute of Manpower Studies, 1986) who argues that employers require operational flexibility in order to respond quickly to changes in the market, to innovate technologically and to deal efficiently with ups and downs in the flow of work. This, they say, can be achieved by employing a 'core' of secure, permanent, multi-skilled, full-time employees and a 'periphery' of marginal, generally single-skilled, workers who may be part-time or temporary, directly or indirectly employed in a variety of 'new' ways.

This model has become enormously popular in the media and in the business studies world and has contributed to an upsurge of interest in 'new' or 'flexible' forms of work which are often defined very broadly to include self-employment, homeworking (including its electronic variant 'teleworking'), indirect employment through agencies or subcontractors and direct employment under 'flexible' contracts. The latter include 'zero hours contracts', 'min-max contracts' and 'annual hours contracts' as well as fixed-term contracts of various types. Such arrangements are often presented as a means of transforming fixed costs - the regular wage bill and associated costs of employing permanent workers, like National Insurance and pensions contributions, and office overheads - into variable costs, which are incurred only for the duration of a particular project and imply no long-term commitment by the employer. Part of the flexibility which is gained is therefore the flexibility to redeploy funds at short notice.

Parallel with these ideas about flexible management, and often - perhaps deliberately - confused with them, runs another set of assumptions about the needs of the workforce. Here, the rhetoric is somewhat different, and draws in some measure on the libertarian and feminist ideas of the 60s and 70s. Workers, it is said, no longer want the 'rigidity' of the 9-to-5, 40-hour week. They want 'time sovereignty' - the freedom to choose when and for how long they work. Women, in particular, want to combine paid work with looking after children or sick or elderly relatives in the home. Flexible work, it is suggested, is the ideal solution for them. An illusion is created that there is a perfect match between the needs of employer and worker, and that flexibility somehow works for both.

That this is an illusion becomes apparent if we examine the reality behind

some of these ideas. The first myth which needs to be exploded is the idea that these forms of work are new. Many of them have existed for centuries in the form of casual or day-labour, seasonal work, homework, temporary work, freelance work or odd-jobbing. Part-time work has been integral to the operation of most service industries and some manufacturing ones for over three decades. It is true that new types of employment contract, such as the 'zero hours' or 'min-max' contract, have arisen in some countries, but this can be attributed as much to the need to evade employment protection provisions as to any genuine novelty in the relationship between worker and employer.

The major change in recent years has not been the emergence of new forms of work but a growth in some very old ones. As we will discuss in later chapters, this seems to be the result of a number of interconnected trends - industrial restructuring, recomposition of the workforce, technological change, deterioration in welfare provision and public services, and a weakening of trade union bargaining power.

Another concept which requires challenging is that of the 'core' and the 'periphery'. While this may fit the reality of some organisations and industries, there are certainly a great many which it does not.

The 'core' is supposed to consist of the highly-skilled staff who are indispensable to the running of an enterprise, in whom the employer is prepared to invest heavily, providing training, a high salary and fringe benefits, the prospect of advancement and other inducements to loyalty. In this category one would expect to find professional and technical staff, such as computer specialists, accountants, architects, designers, specialist trainers and engineers. Yet in many industries, it is precisely these groups of workers which are being redeployed into 'flexible' types of work arrangement. For instance, computer professionals have featured heavily in the telework schemes set up in the UK by companies like ICL, the FI Group and Rank Xerox. Accountants, architects and trainers also figure among the groups of workers considered particularly suitable for privatisation by local government and other public bodies. Although numerically a very small percentage of the total pool of 'flexible' workers, it is in fact just such professional and technical groups as these which make up the burgeoning freelance and small consultancy sector which has grown up to

meet the new demand for subcontracted specialist office services.

Turning to the supposed 'periphery', we find a similar mismatch between model and reality. A glance at the statistics showing the occupational breakdown of 'flexible' workers reveals that many are employed in positions which, far from being peripheral, are central to the running of their industries. Large sections of the clothing and toy industries, for instance, are entirely dependent on the labour of homeworkers to manufacture their staple commodities. The catering industry relies on part-time, seasonal and casual workers to cook for, serve and clean up after its customers. Part-timers also play a crucial 'core' role in the retailing and banking industries and in public services like health and education.

Like the 'core/periphery' model, the concept of time sovereignty also, on close examination, proves highly dubious when applied to 'flexible' work. Underlying it are two assumptions: firstly, that workers are free to choose whether or not to work, and secondly that they are free to allocate their time between 'work' and 'leisure' as they choose. The first assumption makes sense only for people with an assured independent income; it is meaningless for the vast majority of workers, since they need to work in order to subsist. The second ignores the fact that time not spent in paid work is not necessarily 'leisure' to be freely disposed of. For virtually all women, and substantial numbers of men, it consists of unpaid work - housework, shopping, care of dependents and so on. Far from being available to be redistributed freely around the clock, this time is tightly structured by external factors like the opening hours and holidays of schools, day-centres, shops and post-offices; children's bed-times; family meal-times; and public transport timetables.

A form of flexibility determined by the employer's needs, which requires varying amounts of work at unpredictable times and brings fluctuating rewards, far from increasing choice for an individual worker, actually *decreases* it, generating a state of perpetual insecurity and making it impossible to plan ahead. One homeworker quoted by Sheila Allen described it like this,

'You are a prisoner in your own home. You can't go out for a walk or even wash your hair. They come any time. And if you are not in they give the work to someone else.'

Her situation is similar to that of many on-call workers in the Netherlands whose contracts require them to wait by their telephones each day in case they are required to work.

The word 'flexibility' is clearly quite inappropriate to describe such a situation, and some would suggest that the word has become so irretrievably linked to a notion of flexibility which is solely in the employer's interests that it should never be used in relation to the fulfillment of workers' needs. Others feel that it is still useful, and could be re-appropriated to describe a re-organisation of work which is in the interests of workers, particularly women workers. They point out that the demand for flexible working hours was frequently raised by women's groups during the 60s and 70s and that there is still a clear need for work to be structured to meet the needs of workers with dependents to care for. Such worker-determined flexibility would, however, take very different forms from that currently promoted by employers. It would, for instance, presuppose long-term job security and a guaranteed income.

The term 'flexibility' is therefore highly problematic. Because it is currently so widely used, we are reluctant to abandon it altogether, and have retained it in the title of this booklet. However we feel that a less ambiguous term is required, more accurately reflecting the balance of power between the parties concerned. When discussing the process by which employers transform permanent, secure jobs into temporary insecure ones, or substitute subcontracting, the use of agency staff or self-employment for direct employment, we prefer the word 'casualisation' to 'flexibilisation'.

In the past, the word 'casual' has in some industries - such as agriculture, the docks or the building industry - taken on very specific meanings, along with related concepts like that of the 'day-labourer'. For some people it conjures up an image of a burly, male, cloth-capped manual worker and seems incongruous when applied to women, particularly women in white-collar occupations. Nevertheless, it does fairly accurately describe the reality of the relationship between many 'flexible' workers and their employers. A casual worker is one who is expected to be available when required but is guaranteed no work, and to whom the employer has no obligation other than to pay for the work actually carried out.

In the rest of this booklet, we will frequently use the term ‘casualisation’ as a substitute for ‘flexibilisation’. However we do not feel that ‘casual worker’ is always an acceptable substitute for ‘flexible worker’. This is because we reject any blanket terminology for such workers. The term ‘flexible worker’ is frequently used in a piecemeal way to describe very disparate groups of workers who have little in common other than being regarded by their employers as a pool of labour to be drawn on when required and dispensed with when not. Many part-time workers, for instance, have secure contracts of employment of long standing. Their ‘flexibility’ refers more to an ability to be switched from task to task or from shift to shift than to any temporary status with the employer. In such cases, we prefer to use whatever term most accurately describes their situation.

WOMEN AND FLEXIBILITY

Since the late 1960s, when women with children made their first large-scale re-entry into the labour market since the Second World War and the modern women's movement was born, the concept of flexibility has been problematic for women. In many ways, debates on this subject have encapsulated the wider tensions between the short-term demands created by the need to accommodate to women's needs in the world as it is and the longer-term ones required to transform it into the world as women would like it to be.

In the world as it is, women are responsible for most housework, childcare and care of other dependents, and generally have a lower earning power than men. From the need to accommodate the demands of this reality, women have demanded, and in some cases won, such things as the right to work short hours to fit in with the standard school day; the right to take paid leave to deal with family illnesses; workplace creche provision; the ability to rearrange working hours to fit in with such contingencies as doctors' or dentists' visits or school holidays; and the right to extended maternity or compassionate leave.

Sometimes reinforcing these demands, and sometimes in tension with them, have been others, designed to bring about a longer-term equality in the world as women would like it to be. These include equal pay for women and men, together with equal access to training and other benefits; shorter working hours for everybody - male or female; the equal participation of men in housework and childcare; universal provision for children, the sick and the elderly which allows carers to work a standard working day; the right of every citizen to an independent income sufficient to guarantee subsistence.

The second set of demands stands in clear opposition to most of what is currently on offer to women seeking employment. However the first set

bears some superficial resemblance to the 'flexibility' which, it is suggested, is provided by some forms of part-time, temporary or casual employment. This has led to opposition to these demands from some quarters. It has been argued, for instance, that to ask for these things is to play into the hands of the employers; that to demand special provision for carers is to accept and reinforce women's role as primarily responsible for care. To give women carers special treatment, it is said, is to confirm their secondary status in the workforce. The apparent contradictions between the short-term and longer-term demands of the women's movement have sometimes created rifts both within the movement itself and within some trade unions.

That such divisions are needless becomes clear on closer examination. As noted in the last chapter, flexibility set up to meet the employer's needs does not necessarily meet those of the worker. For example, if extra hours need to be worked because of a sudden surge in the workload, this is likely to take precedence over the baby's medical check-up. Or if demand slumps and there is no work for a week, that is likely to mean no pay, regardless of the gas bill that needs to be paid.

The short-term and long-term demands turn out to have more in common than appears at first sight: the need for a secure, steady income; working hours which are known in advance and can be planned around; and benefits like paid sickness and holiday leave, training and pensions.

This reality is obscured by much of the rhetoric about flexible work. As Jennifer Hurstfield notes, this tends to take two different forms. The first approach, embodied in such concepts as the 'flexible firm' or the 'core/periphery' model, avoids mentioning the fact that 'core' workers are generally assumed to be male while 'peripheral' ones are women. The other, often found in government research, is quite different.

"This approach recognises the disadvantages women face in terms of pay and conditions but implies that women will readily exchange these for flexible hours. So the state attempts to co-opt women by implying that they find the terms of such work attractive and acceptable, or by appealing to the idea that they are, after all, only secondary earners, not breadwinners."

This concept of a dual workforce contains the key, not only to official thinking about flexible workers but also to many of the social and legal institutions which structure their lives. As Riki Holtmaat puts it,

“The social and economic structure is built upon the concept of the ‘male breadwinner - female at home’.”

Although fewer and fewer households actually conform to this model, it is this assumption, more than any other, which underlies the lack of social security benefits for married or co-habiting women; the lack of public facilities for caring for children, the sick or the elderly; the opening hours of schools, banks and shops; and - perhaps even more significantly in this context - the concept of the ‘normal’ 40-hour working week and the ‘normal’ weekly wage which accompanies it.

This last concept is not, of course, exclusive to government departments. It has historically been adopted by many within the trade union movement where it was developed into the notion of the ‘family wage’, sufficient for a breadwinner to support his wife and children without the need for them to work.

Even if we discount the fact that the full-time adult male wage in many industries is in fact too low to support a family, this notion is peculiarly pernicious because, by establishing the adult male wage for a permanent 40-hour week as the norm, it virtually guarantees that anything less will produce wages which are below the level of subsistence.

In addition, there is a psychological effect. Because full-time permanent work is seen as ‘real’ work, done by ‘real’ workers (ie ‘breadwinners’), part-time, temporary or home-based work, becomes regarded as somehow ‘not-real’ - less valuable and less important than the work done by the ‘real’ breadwinners. This encourages the treatment of flexible jobs - or indeed, very often, of any jobs done by women - as dispensable, and secondary in importance, an attitude which is not confined to employers but, as most women can testify, is also often encountered in the home, the community and the trade union meeting.

Challenging this assumption - that all women are, or should be, economi-

cally dependent on men - turns out to be a crucial component of any strategy to improve the position of flexible workers. It could almost be said that the concept of the male breadwinner is the glue which indissolubly links together the fact that the vast majority of workers are women, the fact that they are low-paid and the fact that their real needs are so often disregarded.

However, it will be no easy task to dislodge it. As later chapters in this booklet will show, it is deeply embedded not only in such institutions as social security regulations, employment legislation and collective bargaining practices but also in human attitudes and ideas, often unconscious, about how life should be lived.

HOW BIG IS THE FLEXIBLE WORKFORCE AND WHY IS IT GROWING?

Employment statistics are a notorious minefield, and none more so than those relating to 'flexible' work. Since we are dependent on official government sources for the figures, it is simplest to accept their definitions of 'flexible worker' for this purpose, even though, as we have already noted, these lump together a wide variety of different workers, with little in common. In the UK Department of Employment's definition, for instance, we find bracketed incongruously together self-employed plumbers and part-time secretaries of many years standing in their jobs; freelance journalists and seasonal agricultural workers; ice-cream salesmen and office cleaners.

Even if we accept the logic of classifying together all workers who do not have full-time, permanent jobs, we are still left with a confusing statistical muddle. How is part-time work to be defined, for instance? In Britain, some counting methods are based on the number of jobs with earnings above a certain level; others on the number of workers with hours above a certain level. Both methods leave out some workers with low earnings or hours. But the first also carries the danger of double-counting workers with more than one part-time job. Many other workers, particularly low-paid ones such as homeworkers, domestic cleaners and childminders, are unknown to the authorities and never figure in the statistics at all. Other problems have been created by changes in the questions used for collecting information. In the UK, for example, workers were asked before 1984 in the three-yearly Labour Force Survey, whether their jobs were 'regular' or 'casual'; after that year the words 'permanent' and 'temporary' were substituted, producing quite different replies - many 'temporary' workers see their jobs as quite 'regular'!

With this proviso, it is nevertheless useful to look at the official figures

because, however inaccurate they may be in detail, they unquestionably show the broad outlines of a picture in which non-permanent work, work without employee status and work with short or irregular hours is expanding rapidly.

In the Netherlands, the proportion of part-time workers (those working less than 25 hours per week) doubled between 1971 and 1982, from 6 per cent to 12 per cent of the total workforce. By 1988 this had risen to 22 per cent with more than 50 per cent of Dutch women working part-time. The first surveys of the number of workers on temporary or 'flexible' contracts date from 1983. In that year estimates of their numbers ranged from 251,000 to 650,000 (approximately 4 per cent and 10 per cent of the workforce respectively). However five years later, adding together the figures for part-time workers, homeworkers, agency workers and workers on temporary, on-call or other 'flexible' contracts, Marga Bruijn-Hundt estimated that some 2 million people, a third of the Dutch working population, were 'flexible' workers.

The picture is remarkably similar in the UK where about 22 per cent of the total workforce is also part-time, a proportion which is still growing and rises to 45 per cent among working women. Here too, Department of Employment figures for 1986 point to a total of one-third of the workforce in 'flexible' employment, over 8 million workers in all. Of these about 5.1 million are part-time workers, 2.7 million are self-employed, and 1.6 million are temporary workers. There is, of course, some overlap between these categories: some temporary workers are also part-time, for instance. The self-employed category includes a number of people who would be more properly described as proprietors of small businesses than as flexible workers, as well as many who would probably have employee status if they were aware of their rights.

There are a number of reasons for this phenomenal change in the structure of employment which intertwine in complex ways.

In part, it is a reflection of industrial restructuring. Manufacturing and extractive industries, like engineering and coal-mining, traditional employers of a permanent, centrally-based, full-time, skilled workforce, have declined. On the other hand, service industries, much more scattered

geographically and often with extended opening hours to meet the needs of consumers, have expanded. The vast majority of the 'flexible' jobs have been created in service industries, particularly in retailing, banking and finance, miscellaneous and public service (Hurstfield, J, *Part-timers under Pressure*, Low Pay Unit, 1987). However it would be a mistake to conclude from this that flexible employment is exclusive to the service sector. Manufacturing industries employ large numbers of homeworkers. Recently there has also been an increase in so-called 'internal flexibility' in manufacturing - the use of a multi-skilled workforce which can be redeployed from job to job, or from shift to shift, combined with a growing use of temporary and agency staff. Many employers in this sector also rely on part-time workers, often in special evening or week-end 'mothers' shifts'. Such developments not only optimise the use of expensive machinery; they also provide a buffer to protect the jobs of the regular full-time workforce.

Associated with and facilitating this industrial restructuring has been a process of technological change, which has also contributed to the casualisation of employment in ways which will be discussed in a later chapter.

The expansion of these forms of work would not, of course, have been possible without the existence of a pool of workers prepared to accept employment on such terms. Several factors have contributed to the growth of just such a pool: a rapid general increase in unemployment during the late 70s and early 80s; a rise in the number of lone parent families; a decline in the availability of full-time day-care for children, the elderly and people with disabilities; the increasing inadequacy of welfare benefits to provide a liveable income; and more assertive demands for economic independence for women in the wake of the women's movement of the 70s.

The fact that large numbers of workers have been prepared to accept these forms of work should not be interpreted to mean that this is the form of work they would ideally have chosen. In the Netherlands, a group of researchers surveyed 160 people working in such ways and discovered that only 20 per cent wanted to be 'flexible' workers. The others had only accepted such work after a long period of looking for a regular job. Three-quarters of the sample were women, the majority of them re-entrants to the labour market after a period looking after young children full-time at home.

The researchers found that women's motives for seeking work were different from men's. They were more likely to cite 'wanting to have money of my own', 'independence' and 'getting away from the boredom of being at home', whereas men were more likely to say that they did not want to be dependent on social security (van Geuns, RC, Mevissen, JMW and Neve, JH, *De Andere Kant Van Flexibilisering*, Min van SZW, Den Haag, 1988). It should be noted, however, that in Holland most women returning to the labour market do not have any social security rights because they are regarded as dependent on their husbands, so this reply was not relevant for them. We will return to the subject of gender and flexible work in the next chapter.

Social and economic factors like these do not provide a complete explanation for the casualisation of employment which has taken place over the past decade. There have also been initiatives which have encouraged its development.

One of these has been privatisation - the selling of nationalised industries and the introduction of compulsory competitive tendering for the provision of public services. As Jane Foot puts it,

“The contracting out process is not just about cutting the wages bill. It is about restructuring service employment and putting public services on a commercialised basis. Whether the in-house or the private contractor wins a contract depends on who puts in the lowest tender - i.e. who can do the work cheapest. This affects the number of jobs, wages, conditions, hours and quality of service. The service has to be re-tendered every few years, so job security is lost and there is a constant downward pressure on wages... Reductions in hours and pay, changes in shift patterns, loss of National Insurance benefits, sick pay, bonus, holidays, maternity leave, pension rights, training and job opportunities are all features of working for the private contractors.”

Because of their concentration in low-paid public service manual jobs,

such as cleaning and catering, black and ethnic minority women are particularly severely affected by privatisation.

Political intervention has not been restricted to public services. There have also been statutory initiatives explicitly designed to encourage such forms of employment throughout the economy. In the UK, for instance, successive employment acts have progressively weakened the employment protection legislation of the 70s and outlawed many of the traditional trade union practices which might have served to defend these rights in individual workplaces. In the Netherlands, it has been made easier to employ people on temporary contracts and to dismiss them at short notice. In Jennifer Hurstfield's words,

“Both governments are explicitly committed to a strategy of deregulating the labour market. Implicit in this is the idea that statutory protections for employees limit employers' incentives to create new jobs. The priority has become removing or weakening any barriers to a 'free' market in labour. Any costs to employees of flexible work - such as fewer employment rights, less security, lower pay etc - are presented not as costs but as an essential component of economic growth.”

The political forces which encourage casualisation are thus matched by ideological ones. Alongside the economic restructuring and the legal deregulation of employment we are presented with a set of ideas. Flexibility is associated, not just with modernity and progress, but also with individual freedom and choice. Traditional working practices are seen as rigid, backward and restrictive. It is perhaps this negative aspect which explains the power of the ideology of flexibility, and the speed with which it has taken hold. There can be few workers who have not at some time experienced their jobs as constraining, particularly when they have been trying to juggle their work commitments with family ones. On first sight, anything which promises to loosen up the traditional structures seems attractive, and this experience can provide a hook on which to hang the whole set of ideas promoted in association with 'flexibility', particularly for those with no first-hand experience of 'flexible' work. The gap between such ideas and the reality of casualised work is examined elsewhere in this booklet.

INFORMATION TECHNOLOGY AND THE RESTRUCTURING OF LABOUR MARKETS

As we pointed out in the last chapter, the recent growth in flexible employment cannot be explained solely by the social and political changes of the last decade, although these have undoubtedly given a major impetus to the process of casualisation. Industrial restructuring has also made an important contribution, and technological change has played a critical role in this restructuring.

In making this statement, we do not wish to suggest that new technology has itself caused these changes. Technology is merely an instrument in the hands of employers which is capable of being used in a variety of ways. There is no inherent reason why automation should be a means of casualisation. However at a time when employers have been anxious to reduce their labour costs it has, directly or indirectly, provided them with a whole battery of new possibilities for doing so and many have been quick to take advantage of these possibilities.

There are a variety of ways in which information technology can contribute to changing the structure of an organisation. Some of these result from its capability of improving both the quality and the quantity of information available to management. Sophisticated information on sales being fed back from minute to minute to management from the point of sale, for instance, makes it possible to introduce 'just in time' production methods in the manufacture of a wide range of commodities, from cars to clothes. Under this system, it is no longer necessary to retain large stocks 'just in case' they are required; new products can be manufactured as and when they are needed. However such a system does not just depend on a swift and accurate flow of information from the sales to the production departments. It also requires a production process which can be switched on and off on demand and which is located near to the sales outlets so that demand can be met quickly. As Swasti Mitter has shown (Mitter, S,

Common Fate, Common Bond, Pluto Press, 1986) this has led to a restructuring of employment in some industries, like the fashion sector of the clothing industry. Instead of manufacturing in large factories, often in the developing world, as they did in the 60s and 70s, companies are now increasingly using chains of sub-contractors, based in large cities in Europe and the United States. These tend to employ low-paid women workers working in small sweatshops or their own homes in insecure conditions.

Sophisticated management information has also contributed to other forms of casualisation. Without it, the forms of monitoring required for the privatisation of many public services would not be possible; neither would many other forms of subcontracting whose management involves keeping tabs on the productivity of a large, and often scattered workforce, whether these are cleaners or refuse collectors, lorry drivers or cooks.

Computerised information systems are also the key to the management of the complicated new shift systems being introduced in retailing and other industries. Bernardette Hillon describes supermarkets with up to 183 different shift patterns for 350 workers - a situation which would be totally unmanageable without the electronic 'clock' registering starting and stopping times, the electronic 'spy' in the till monitoring each worker's productivity and a computer program to act as electronic wages clerk by working out each individual's earnings.

These are not the only ways in which information technology assists casualisation. Computerisation also encourages the fragmentation of labour processes into routine and repetitive component parts which are easy to quantify. Once this process has taken place, it becomes easier to separate out a particular function and subcontract it to whoever can perform it most cheaply and efficiently. The sub-contracting of data entry is one example of this. There are now specialist data entry companies which are able to offer extremely cheap rates because they use the low-waged labour of homeworkers or of workers in 'electronic sweatshops' in developing countries in Asia or the Caribbean.

The same process of routinisation also standardises the skill requirements of many tasks, often transforming multi-skilled jobs into single-

skilled ones. This too reduces an employer's dependence on a longstanding workforce in a fixed geographical spot. Because it is no longer necessary to make a heavy investment in training a worker, the workforce is more readily dispensable, and it becomes feasible to hire people on a temporary basis or to shift work to a site where labour is cheaper.

Maartje van Putten illustrates the spread of subcontracting,

“The production of goods is more and more segmented. The small segments are sub-contracted from the key transnational corporations to smaller enterprises. They in their turn also subcontract. By subcontracting, the key firms don't have the responsibility or the risks of employing the workforce. They don't have to pay the overhead costs and by playing off one subcontractor against another they can make cheap contracts. The Japanese transnational Toyota has 38,600 subcontractors. In the first line they only subcontract to 200 highly specialised enterprises. These 200 subcontract to the other 38,400 small enterprises. 60 per cent of industrial production in Japan takes place in the informal sector. Large transnationals, the key companies, and the first circle of subcontractors usually have good, well-paid jobs which are held by men. The further we move down this chain of subcontracting the more we find women working with flexible contracts or at the lowest level as home workers.”

Combining computer power with cheap telecommunications networks makes it possible to site work at a distance from the employer without losing the ability to communicate directly or to monitor work. This opens up a number of possibilities: the remote employment of 'teleworkers' - homeworkers linked electronically to the employer's office; the shifting of back-office functions from metropolitan city centres to suburban or provincial offices; or the introduction of offshore offices in low-wage countries. Such moves are generally associated with lower wages, less security and poorer working conditions than those prevailing in traditional downtown offices.

The use of remote terminals also makes it possible to externalise functions previously carried out in-house. Self-employed agents, for instance, can key in their orders remotely to the computers of mail-order catalogue companies, carrying out work previously done by order clerks on the com-

pany's permanent payroll. Similarly, insurance sales can be keyed in by freelance 'financial advisers' instead of employees of the large insurance companies, and holidays can be booked remotely through viewdata terminals in the offices of small travel agencies instead of by the staff of the major tour operators, who thus save on labour costs.

There is a similar pattern in other service industries: labour costs, and with them the obligations of the employer, are dispersed to small, insecure organisations or to individuals; however the major company which supplies the service retains ultimate control both of the labour process and of the income of the dispersed workforce, although this control is often exercised indirectly.

Characteristic of many of these forms of casual or dispersed employment is a form of payment which is not based on the number of hours worked but on results. Workers become self-monitoring and self-managing because their income is based on the payment of piece-rates, commission, or the terms of a franchising agreement. They do not gain any real control, however, because these terms are dictated by the provider of work on whom they are dependent. The technology thus becomes a means of devolving responsibility without devolving power. Responsibility without power is a condition with which most women have long been familiar in other areas of their lives, from the care of dependents to the safety of their homes, and most are well conditioned to accept it.

We hope that these examples serve to show the crucial role played by the introduction of information technology in the latest wave of casualisation and to the growing international division of labour which is closely associated with it. The importance of technology in this process suggests that any strategy to control casualisation and deflect its worst effects must include strategies for placing effective control of information systems in the hands of those who use them.

THE LEGAL FRAMEWORK

In many ways, the legal systems of the Netherlands and the United Kingdom are utterly different. Yet, despite differences of detail, both have produced structures which reinforce the secondary status of women workers who are not full-time, permanent employees. This effect is not produced by any single, easily-amended law, it is the result of a complex interaction between the taxation and social security systems, the national insurance regulations, employment protection legislation and the rules which govern trade union representation and collective bargaining.

One area of considerable ambiguity is the contractual status of many 'flexible' workers. Dutch law recognises three distinct types of employment contract: the normal employee labour-contract; a contract of acceptance of work, which treats the worker as a subcontractor; and a contract for rendering personal services. Of these, it is only the normal labour-contract which confers on the worker the right to a minimum wage, the right to equal pay and equal treatment, equal social security rights (as defined in the three EC directives on the subject), and protection against arbitrary lay-off. With the exception of minimum wage entitlement, for which it is necessary to work a minimum of a third of the normal working week, these rights are available to all employees, regardless of how few hours they work. Many Dutch part-time workers, temporary workers, on-call workers and homeworkers are unclear about their contractual status. While they may regard themselves as employees, they do not know to what rights they are entitled or - where they know that rights exist - how to insist that they are granted.

Case-law has elaborated on the legal criteria for establishing whether a worker is in fact an employee (like, for instance, the requirement that there must be a relationship of obedience between worker and employer) but some employers have gone to considerable lengths to devise contracts which circumvent these requirements and place the worker out-

side the scope of employee protection legislation. As Catalene Passchier points out,

“By doing this a lot of confusion is created for employees. They never know if they have any rights or not, and are very much intimidated by the employer who emphasises the fact that the contract gives them no rights at all.”

Unlike some European countries, the Netherlands allows its employers to employ workers on temporary contracts, but these are tightly controlled. It is currently forbidden to run more than one temporary contract end-to-end. A worker who is immediately re-employed after the expiry of a temporary contract is automatically awarded the protection of a permanent labour-contract, with full employee status. However there are currently moves to relax this stipulation.

This situation has led to considerable legal inventiveness on the part of Dutch lawyers to ensure that workers' casual status is formalised. The 'on-call' contract has spread rapidly in recent years, most notoriously in the form of the 'zero hours' contract, which does not guarantee the worker any work (or income) whatsoever, but requires her to be permanently on-call in case of need. A modified version, known as the 'min-max' contract, guarantees a minimum number of hours, say 10 per week, but states that the worker must be available on request to work considerably more, perhaps 40. The Dutch Ministry of Social Affairs has estimated conservatively that at least 125,000 women are currently working on such contracts in the Netherlands, mainly in the retail and distribution sectors. Research by the same ministry, quoted by Catalene Passchier and Marga Bruijn-Hundt, reveals that 80 per cent of these workers would prefer to have fixed working hours.

In practice, Dutch law offers no special protection to homeworkers. In theory, the 1933 Domestic Industry Act should ensure that certain minimum conditions are adhered to but, as Hester de Vries recounts,

“In fact the Domestic Industry Act has proved to be of little or no importance. To date, regulations for wages have not been laid down, nor have domestic industry boards been established... The Act is considered to be a dead letter.”

In Britain, the approach has been somewhat different. A worker's employment status may be one of only two kinds: an employee or a self-employed person. However an employee is not automatically entitled to all the rights conferred in the Netherlands by a normal labour-contract.

Minimum wages exist only for people over 21 in a few, specified industries covered by Wages Councils (notably the retailing, catering and clothing manufacturing industries) with the likelihood that even these limited rights will be abolished in the near future. Employee protection is also limited in other ways which penalise 'flexible' workers.

Entitlement to these rights is summed up by Olive Robinson in the following words,

"In Britain, employees are not able to claim most statutory rights unless they have a specified period of continuous service. Legislation excludes part-time workers by providing that employees who work for fewer than a certain number of hours per week cannot accumulate sufficient continuous service to qualify for those rights, and in some cases expressly excludes those who work for a specified number of hours. Entitlement to major employee rights such as redundancy pay, guaranteed payments during short-time working, maternity pay, the right to claim unfair dismissal, is dependent on the individual having a working week of at least 16 hours for at least two years, or eight hours for persons with five years continuous service with the same employer. The British government has recently proposed that these weekly hours themselves should be raised to 20 and 12 respectively, a change which if enacted would increase the numbers of part-time employees who do not receive employment protection by an estimated 300,000 of whom 95 per cent are female."

Further amendments to the 1970s employment protection legislation by the Thatcher government have excluded small firms altogether from the requirement to offer women their job back after maternity leave, and have extended to one year the period during which a worker, whether full or part-time, has no protection against unfair dismissal.

In a situation where any worker not protected by a collective agreement may be dismissed with impunity at any time during the first year of

employment, the need for temporary employment contracts is considerably less than in Holland (or, indeed, in any other European country where a dismissal prohibition operates from the first day of employment). British employers wishing to evade their obligations to protect workers have therefore developed rather different strategies from their Dutch counterparts. There has been much less emphasis on the development of elaborate contracts; much more on ensuring that workers' hours are kept too low, or periods of service too discontinuous, to entitle them to these rights.

It seems likely that such motivation has played a large part in the downward trend in the number of hours worked by part-timers in the UK noted by Olive Robinson.

“In 1975, the percentage (of part-time workers) working eight hours per week or less was 3.8 per cent, compared with 7.9 per cent in 1987 for manual occupations (3.9 per cent and 11.6 per cent for non-manual occupations). The corresponding percentages for those working between eight and 16 hours per week were 16.1 per cent in 1975 and 23 per cent in 1987 for manual workers and 14.3 per cent in 1975 and 29 per cent in 1987 for non-manual occupations.”

As in the Netherlands, there is no specific protection for homeworkers provided by the law. In both countries, such rights as they do have depend on being able to prove that they have employee status. This is something which many, in theory, should be able to do, since their relationship with their employers and mode of work frequently conform to the criteria established in case law as defining this relationship. In practice, it is well-nigh impossible. Many homeworkers are unaware of their rights and do not have access to legal advice. Even if this were forthcoming, economic powerlessness makes them too dependent on the employer's goodwill to dare risk losing future work.

It is apparent that, despite enormous differences in the employment protection laws and in employers' practices, the net results for 'flexible' women workers are remarkably similar in both countries: their toehold in the world of regular employment is precarious. By one means or another they have been excluded from many of the rights which full-time permanent workers take for granted and such rights as they do have are often unclear or difficult to assert.

Turning to national insurance and social security provision we find other similarities.

Both Britain and the Netherlands have thresholds below which national insurance contributions are not payable. The combination of low earnings and/or low hours can therefore place many part-time workers below this threshold. This excludes them from benefits such as sick pay and unemployment benefit. It also contributes to the 'poverty trap' whereby workers whose wages rise just above the threshold end up receiving a lower net income because of the need to make contributions to the fund. In some cases this effect is augmented by a drop in earnings-related welfare benefits.

Women workers who have not made sufficient contributions to be entitled to benefits in their own right are also excluded from social security benefits if they are married or considered to be co-habiting with a man. Women who are obliged to move in and out of a series of short-term periods of employment are thus also obliged to move in and out of economic dependence. A cyclical pattern may be set up: out of economic desperation, a woman applies for a low-paid and/or temporary job. With no employment protection, she is quickly laid off. Having had too low an income or too short a period of employment to qualify for unemployment benefit, she is thrust back into dependence on her partner. The household income drops once again to crisis level and she is again forced to take whatever insecure work she can find. Such a pattern can be further exacerbated by other factors, such as being obliged to give up a scarce nursery place when she loses her job and having to re-join the queue if she gets another one.

It is apparent that the cumulative effect of these provisions, in both countries, is to enforce the difference between regular full-time permanent workers (the 'breadwinners') and those who are not. For the former, they provide a basic framework of rights which provide some security. For the latter ('secondary' or 'peripheral' workers), they promise next to nothing.

TRADE UNION ORGANISATION

The organisation of casual workers is nothing new for trade unions. Indeed, the whole history of the movement can be read as a series of struggles to de-casualise work: to gain security for workers; to regularise their hours and wages; to win holidays, sick pay and other benefits where they did not previously exist. In some industries, this process was fairly straightforward; in others, work was by its nature irregular or transient and the struggle was more complex, often involving the invention of ingenious devices to provide stability of income in an inherently unstable environment.

Well-known examples of the latter include dockers, construction workers, seasonal agriculture workers, actors and film technicians. A by no means exhaustive list of devices which have been developed to protect such workers includes detailed collective agreements covering hiring practices; the pre-entry closed shop; union-run employment agencies; the UK dock labour scheme (newly abolished by the British government); labour pools (as developed in the Netherlands in the docks and some transport industries); apprenticeships and other means of regulating access to certain trades; and the introduction of lay-off pay.

With some honourable exceptions, however, the main emphasis of such initiatives was the organisation of full-time male workers. Because they were 'breadwinners', their casual status did not present any challenge to the idea of the 'family wage'.

It was not until the 1960s, when there was a rapid expansion of part-time work coinciding with the beginnings of the most recent women's movement, that the organisation of part-time workers was first placed seriously on the trade union agenda. Although still very much a minority concern, it gained slowly in importance during the 1970s and is now, as the 80s draw to a close, finally edging its way towards a central position.

This shift has come about for several reasons. Firstly, and most obviously, it is a direct response to the needs of the women who have for two decades been joining trade unions at a faster rate than men, and becoming increasingly vocal in their demands. Secondly, it results from a recognition of the changing structure of employment. As Margaret Prosser points out,

“Figures produced by the UK Department of Employment in May 1986 showed that between March 1983 and December 1985 500,000 new ‘women’s’ jobs came onto the labour market, almost 450,000 of which were part-time jobs. During the same period 26,000 ‘men’s’ full-time jobs were created.”

She also indicated a third reason: the recent precipitate fall in trade union membership and the view that part-time and temporary women workers are the most likely source of new members to make up this shortfall.

“Between 1979 and 1987 membership of the TGWU (Transport and General Workers Union) reduced from over 2 million to 1.3 million, although in the years 1985-7 the numbers of women members increased slightly. Faced with this severe decline in membership and recognising that the pattern of employment in the UK would not return to that of the 1970s, the General Executive Council of the TGWU decided that a campaign entitled ‘Link-Up’ should be launched to encourage the recruitment and retention of part-time and temporary workers.”

Similar initiatives were taken by other British trade unions. USDAW (the Shop, Distributive and Allied Workers Union), which has recognised the special importance of part-time workers since the 70s, represents 100,000 part-time workers, who make up one quarter of its predominantly female membership. The union recently organised a campaign called ‘Reach Out’ which involved an extensive survey of part-time workers, both inside and outside the union, to establish their priorities. As Bernardette Hillon explains,

“Retention and consolidation of membership requires opening up the union to make it accessible and relevant to union members. This is the focal point of our ‘Reach Out’ activities.”

Significantly, this campaign was initiated by the union’s women’s commit-

tee. The situation is similar in Holland, where the FNV's (Dutch Federation of Trade Unions) recent initiatives on flexible working originated in 1984 at a meeting called by the Women's Department. Jeanette Dees and Titia Bos describe what happened next,

“After that meeting, meetings were held throughout the country on the topic of flexibilisation. Many on-call workers and women working flexibly in different ways presented their problems to trade unions.”

They comment that,

“It is not amazing that the initiative in the trade union movement was taken by the Women's Department. Reports show that two-thirds of flexible workers are married women re-entering the labour market.”

In both Britain and the Netherlands, initiatives like these have resulted in charters, or new sets of demands intended to meet the specific needs of part-time, temporary or on-call workers. Some of these have roused fierce controversy within the unions concerned. It has, for example, sometimes been argued that these forms of work should not exist at all, and to negotiate over their details is to endorse their existence and perpetuate them. A slightly more sophisticated argument claims that negotiating such provisions reinforces women's role as primary carers. Faced with the strength of feeling from part-time and temporary women workers themselves, and the impossibility of achieving an outright ban in the present deregulatory climate, most of these arguments have been formally lost, even though powerful informal rearguard action still remains in many cases. Most unions with a substantial female membership are now committed, at least on paper, to supporting such claims.

In the last chapter of this booklet we will look in greater detail at such specific demands, designed to curb the spread of casualisation and protect part-time and temporary workers.

Important though such measures are, the recent trade union initiatives have produced something which is in many ways even more significant - a recognition that meeting the needs of 'flexible' women workers does not simply involve adding extra items to the negotiators' shopping-lists; it involves an entirely new approach to organisation and an overhaul of

existing structures and procedures to make them more accessible and more accountable to the new, female trade union membership. In the UK, Margaret Prosser describes what is required as a “cultural shift”, Inez McCormack as a “new agenda”, Bernardette Hillon as a need “to ensure that part-time workers themselves are directly involved in furthering their own demands”. Whatever phrase is used to describe it, such an approach constitutes a major challenge to the traditional, male way of organising workers, formulating demands, establishing priorities and negotiating to achieve them.

Women trade unionists in the Netherlands have reached similar conclusions. However because of the very different structure of collective bargaining in the different countries, their starting point for change has not always been the same.

One significant difference between the two countries is that in the Netherlands there has been, since the beginning of the century, a Women’s Union, originally set up to provide a way for unemployed housewives to take part in the labour movement. It is affiliated to the FNV where it has voting rights and a seat on the executive. However it does not bargain directly with employers. After a period of relative inactivity, the union sprang to life again in the 1970s since when it has increasingly occupied itself with women’s employment issues. It has, for instance, set up training projects to enable women to return to the workforce with saleable skills. It has also carried out research among homeworkers and set up a centre for homeworkers in Hengelo, which works closely with local trade union officers and whose work is described more fully in the next chapter.

The very different style of organising developed in the Women’s Union is beginning to leave its mark on other Dutch trade unions. Brenda de Jong, a former Women’s Union worker, is now employed by the industrial union, where she has imported some features of the women’s union’s informal democratic style, organising shop-floor meetings where women workers can raise their problems and feed their demands into the union’s negotiating process.

A second difference between the Dutch and the British industrial rela-

tions structures is the much more centralised system of collective bargaining which prevails in the Netherlands, where most matters relating to wages and conditions of employment are negotiated nationally. Workplace-level negotiations are in the hands of works councils, whose powers are laid down by statute. The Act on Works Councils does not permit them to negotiate the terms of individual contracts of employment. However it does enable them to have a say in such matters as the criteria used by employers in the hiring and firing of staff, which enables them to play a part in protecting the interests of part-time, temporary and on-call workers. However this power is not always exercised. As Yvonne Konijn explains,

“It appears from research that most works councils are not very interested in the problems of women workers. In two out of three councils, women make up less than a quarter of the members. Therefore the interests of women receive little or no attention. Since the share of women employed under flexible contracts is very large, this category of workers will not be represented in the works councils either. Many councils will only consider the position of flexible workers when the status of permanent staff is threatened.”

However this situation is beginning to change. After nearly two decades of active involvement by women in their unions, their representation is increasing at both national and local levels. As a result, the needs of part-time, temporary and on-call workers are becoming more visible; negotiators' priorities are changing and new demands are beginning to appear on the agenda.

In many ways, the British situation is similar. Here, the demands for measures to protect part-time and temporary workers have often emerged from a more general equal opportunities programme. Recently, because of demographic changes which have reduced the number of school-leavers entering the workforce, and because ten years of cutbacks in training provisions under the Thatcher government have produced severe skill shortages in certain industries, some employers have become receptive to initiatives designed to encourage more women to return to work.

Facilities which unions were asking for over a decade ago, such as workplace nurseries, job-sharing and extended maternity leave, have now

become suddenly acceptable. However, as Carole Truman comments,

“When employers perceive that they have an incentive, they can clearly introduce a variety of measures. But as long as these initiatives continue to be employer-led, it remains with individual employers to decide which women are worth retaining and which are not. Thus whilst certain women may be perceived to have an intrinsic value to their organisation, it is unlikely that such facilities will be offered to the majority of women.”

She points out that even when career break schemes are available, they offer only a partial solution to the women who do benefit because of the relative loss of income while the break is taken. There also remains the implicit assumption that there is another breadwinner in the household whose income can maintain living standards during this period. She concludes that, under present conditions,

“Many women will continue to move into the low-pay, low status employment which is associated with the majority of part-time or home-based jobs... In the absence of trade union or statutory support to regulate the terms and conditions of these jobs, decisions about pay and conditions rest with employers alone. Given the present political climate, there is an urgent need for trade unions to address the issues which face part-timers.”

It is precisely this challenge which has been taken up in campaigns like USDAW's 'Reach Out' and the TGWU's 'Link-Up', aimed at bringing low-paid part-time and temporary workers within the scope of collective bargaining.

The process of bringing together such workers has thrown into question many of the traditional trade union ways of doing things, from the time, place and style of meetings to the negotiating agenda.

Inez McCormack describes the way in which the organisation of public-sector manual workers in the Northern Ireland division of NUPE (the National Union of Public Employees) was transformed when part-time women began to be recruited in large numbers. Instead of being held in 'male' venues like pubs, meetings were held in places where women felt relaxed and comfortable, such as community centres, with the result that

attendance grew rapidly. As a result of these meetings, it became apparent that the union's traditional policy of prioritising wage claims in its negotiations was not benefiting part-time members. Because of the 'poverty trap' created by the National Insurance threshold, many actually found themselves worse off financially after a wage increase. In other cases, they lost money because the health service management, operating under tight financial controls with a fixed budget, paid for the increased wages of the full-time workforce by cutting the hours of part-timers (without cutting the workload). The part-time women members were much more concerned about other issues such as health and safety, leave provisions and minimum hours guarantees. A more effective way of increasing earnings for low-paid workers was to argue for their work to be revalued, a process which also had the effect of boosting the confidence of the workers concerned.

A feature of all these union campaigns has been a growing realisation of how women's lives in the community, as consumers and users of services, and as workers are interconnected, and an increasing openness to the idea of working with community-based groups. Some examples of collaboration between trade union and community-based campaigns are described in the next chapter.

ORGANISING IN THE COMMUNITY

The very nature of much part-time and temporary work discourages the worker from identifying too closely with a particular employer, or even, quite often, with a particular type of work. It is not uncommon to find a part-time worker doing several different jobs at once. She might, for instance, do an early morning office-cleaning job, help to serve school meals at lunch time, work behind a bar in the evening and do a Saturday-morning shift behind the check-out at her local supermarket. Or she might combine one or more of these with homework or childminding. A temporary worker, even if working full-time, might switch rapidly from one employer to another.

After studying developments in the retailing sector, Angela Galvin concluded that,

“With the number of hours worked each week in existing stores declining, and the contracts on offer in new stores averaging just 15 hours, the concept of the workplace as the primary site for organisation becomes increasingly less feasible. Nor, in areas where unemployment, low pay, bad housing, poor amenities and poverty are constantly jostling for supremacy, can a single-issue campaign initiated from outside the community hope to make much headway. The problems of part-time working have to be placed within the context of the political decisions and social circumstances which have created or compounded this whole spectrum of inequalities.”

In such situations, a form of organisation based only within the union is unlikely to succeed. In both Britain and the Netherlands, this fact is being increasingly recognised, and projects and campaigns to protect the interests of ‘flexible’ workers are being set up in collaboration between union and community-based groups.

One example has been the establishment of a number of homeworkers’

centres in each country. In the Netherlands, one of these was instigated as a result of research into its members' problems by the Women's Union. Based in Hengelo, it provides information and advice and puts homeworkers in touch with each other and with trade unions. Chris d'Have describes one of the centre's successes,

"A group of outworkers contacted the project with complaints about the piece-rate and the fact that they were paid only once in three months. The trade union representative at the factory was willing to negotiate for them and the employer acknowledged him in that position. This resulted in a wage increase, monthly payment and an allowance for transporting the goods."

Such a result could not have been achieved by a union alone - it would not have had the resources to discover the whereabouts of the homeworkers and contact them individually; neither could a community group acting in isolation have managed to negotiate effectively with the employer. A successful outcome depends on the active involvement of both types of organisation.

A parallel approach has been adopted by Sheffield Low Pay Campaign, which has been carrying out 'pre-union' work with tenants groups, mother-and-toddler groups and other community-based groups in Sheffield and Glasgow in areas where large shopping centres are due to be built. They have been able to make contact with the women who make up the potential 'flexible' workforce in these centres before they have been approached by the employers. Not only has this provided these women workers with concrete advance information about their employment rights, and the appropriate trade union to join; it has also enabled them to take an active part in the planning process for these new centres. Forearmed with the relevant information, they have been able to submit evidence to public enquiries on, for instance, the need for adequate public transport and childcare facilities in the new developments.

Another area where collaboration between work-based and community-based organisations is critical is in public services, currently under threat both from spending cutbacks and from privatisation. When these services are withdrawn or down graded it is women's work which is threatened, whether this is their paid work as service providers or their unpaid work

as service users. Public services are particularly heavy users of part-time female labour, for instance as cleaners, cooks, home helps and care assistants. And it is women who are most likely to be using these services too, either in their own right (for instance far more women are elderly, and of course women form 100 per cent of users of ante-natal clinics) or in their capacity as carers.

SCAT (Services to Community Action and Trade Unions) provides information and advice to groups campaigning against privatisation both in trade unions and in the community. Drawing on her experience of this work, Jane Foot notes that the process of privatisation has thrown up new organisational problems in the UK. When workers' jobs move out of the public sector into the private one, for instance, should their membership switch to a private sector union?

“An increasing number of workers' pay and conditions will be determined by the terms of the contract, not by annual pay bargaining... Do workers organise against the company, or the public body which set the terms of the contract?”

She goes on to say that,

“Changes in how we organise in unions are needed to enable women workers in small isolated workplaces, on different shifts, doing a number of different jobs and with domestic commitments, to organise effectively. Should we be thinking about, for example, a cleaners' union so that all cleaners are in one union, whatever their workplace or employer?”

The implications of such a change would be far-reaching in any country with a tradition of industrial unionism (of which both the UK and the Netherlands are examples). It would make possible a form of organisation in which the basic unit is not the workplace but the locality where workers live. While this might make it easier for women workers to attend meetings and sustain long-term membership it would probably make locally-based negotiations with particular employers much more difficult to arrange.

It is not realistic to expect a wholesale dismantling of existing trade union structures to enable them to become community-based. What is feasible,

however, is a development of the types of initiatives already taken by some unions to bring them closer to local communities. For instance they could collaborate more closely with advice centres and other locally-based groups in recruitment campaigns, as sections of the TGWU and USDAW have already begun to do in the UK, or with local branches of the Women's Union, as some unions have done in the Netherlands. They could hold their meetings in friendly, accessible places which are near people's homes, as NUPE has done in Northern Ireland and elsewhere. And they could mount joint political campaigns on issues which affect workers and users, such as privatisation, lack of amenities or cuts in existing services.

It is because of their commitments in the home and the community that women have become flexible workers in the first place. Their problems in the workplace cannot be resolved without also lightening the burden in these other spheres. Doubly handicapped by their dual role in the struggle to improve their situation, women stand to benefit doubly when solutions can be found on either front. For instance, finding a full-time place in day-care for a small child or an incapacitated parent does not just create a better quality of life at home; it also opens up the possibility of applying for a secure full-time job. Conversely, gaining security of employment and a wage increase at work will also open up new options for enhancing the quality of private and community life.

A strategy for improving the conditions of flexible workers must take account of both facets. To stand any chance of success, any political campaign on their behalf will need the broad support of both work-based and community-based groups.

USING THE LAW

As we noted earlier, part-time and temporary workers, on-call workers and homeworkers face two quite distinct sets of problems in relation to the law in both the Netherlands and the UK.

The first set spring from ignorance or confusion about their rights, or, if they are aware of them, an inability to claim them because of fear or lack of resources. The second stem from the fact that existing laws are simply inadequate to meet their needs.

To escape from this double-sided predicament, a two-pronged approach is called for: on the one hand, making maximum use of existing legal rights; on the other, campaigning for changes to the law which will extend the rights of flexible workers.

Turning first to the former, we find that, despite extensive deregulation during the past decade, a number of avenues are still open, in both countries, for certain categories of worker.

One tactic which has met with some success in both Britain and the Netherlands has been to take test cases to establish that a worker treated by an employer as self-employed is in fact an employee. In both countries, the existence of a contract of employment between the two parties is determined, not by hard and fast rules, but by reference to a number of different variables established by case-law. In the Netherlands, as Catalene Passchier points out, a written contract which states that it is not a labour-contract is not necessarily interpreted by the courts at face value.

“The judges are not blind to what is happening: often they decide that in fact there was a labour contract between employer and employee, because of the regularity of the labour that was done, for example.”

In Britain, similar decisions have been reached on more than one occasion in relation to homeworkers who have taken test cases. However the process of proving employee status has been long and arduous. And a final victory is a pyrrhic one if it results in never receiving work from that employer again.

Nevertheless, such precedents are useful, and add force to negotiators' arguments for establishing the employee status of temporary, on-call or out-workers in collective agreements.

Another tactic for improving the position of part-time or temporary workers is to use equality legislation to gain parity with full-time or permanent staff. In the UK, early judgements interpreted the Equal Pay and Sex Discrimination Acts narrowly in this respect, and part-time status was regarded as a sufficient 'material difference' to make it impossible to claim equal treatment with full-time staff. However this position was overruled by a European Court of Justice decision in 1978, and it is now possible to claim that treating part-timers less well than full-time colleagues doing the same work is indirect discrimination provided that it can be shown that the full-time workforce is predominantly male while the part-timers are mainly women. Because it is comparatively rare to find men and women doing the same type of work in an organisation, the usefulness of this tactic is somewhat limited.

Since 1983, British equality legislation has provided one way of counteracting the effects of occupational segregation: the concept of 'equal value'. Only comparatively few individual test cases have so far been taken, under which women have claimed that their work, although different from that of male comparators, is equal in value. In order to establish the validity of such claims a complex job evaluation exercise is necessary. However the equal value concept has been taken up with some success as part of the collective bargaining process, where it has been used to get the jobs done by women, many of them part-time, re-evaluated and upgraded. A notable example of this was the agreement covering local authority manual workers. By introducing factors like acquired experience and responsibility for people into the evaluation process, it was possible to achieve a substantial pay increase for large numbers of part-time women workers such as home helps and care assistants, whose position relative to predomi-

nantly male groups like refuse collectors was transformed, taking them from nearly the lowest to the highest level of the grading structure.

The public employees' union NUPE instigated an equal value initiative among another group of part-time women workers, hospital cleaners in Northern Ireland. An important part of the process was a reappraisal by the women themselves of the value of their own work. This was partly achieved through education on the history of medicine, through which they learned of the importance of Lister's discovery of how infection is transmitted. They discovered that hygiene is a crucial element in the success of modern medicine and realised that their own work had a medical value, making as direct a contribution to patient health as the work of much more highly-paid hospital staff. Inez McCormack observes that the resulting increase in confidence was quite as important to these women as any of the material gains which resulted.

In the Netherlands, the decisions of the National Committee for Equal Treatment of Men and Women are not legally binding; they have only the status of advice to a court. Nevertheless, it is sometimes possible to use the equality legislation as an alternative to the employment protection legislation as a way of helping part-time or temporary workers. Labour lawyer Catalene Passchier describes such a case, and her reasons for bringing it,

“For many years I have been trying in many cases to prove in court that the so-called ‘flexible contract’ of a client is in fact a normal labour contract. Mostly, after a long procedure, the result has been positive. Nevertheless, even with these positive results (which partly results from the fact that the Amsterdam court is more liberal than those in other parts of the Netherlands) one cannot be very happy: going to court always means action at the end of the road, instead of the beginning. So I started to think about ways to make it clear to employers that, as far as ‘flexible’ contracts are concerned, things are wrong from the very beginning. With this in mind, I brought a case of six women, working as so-called ‘daghulpen’. This means that they were regarded as casual workers who came in to do work on an ad hoc basis for a few days, or a single day at a time, but in fact have a regular pattern of part-time work. The case was brought to the National Committee for Equal Treatment of Men and Women who, in 1988, made a declaration that it constitutes unequal

treatment to offer women contracts and working conditions which are worse than those given to men when there is no difference in the type of work carried out.”

Although it is not legally enforceable, a decision like this has political value, and can be used to add weight to the position of trade unions trying to build security for flexible workers into collective agreements.

For some groups of low-paid workers, minimum wage legislation can be used as a way of winning increases, but its value is limited. In the Netherlands, only people with a normal labour contract who work over about 13 hours a week (a third of the ‘normal working week’ in an industry) are eligible. In Britain, only people aged over 21 in industries covered by wages councils may claim. Even when these conditions are met, the minimum wage levels are not very high. Nevertheless, the threat of being branded a law-breaker may be an effective deterrent to some employers.

It can be seen that the use of existing laws, while time-consuming for individual workers and the lawyers, advice workers or trade union officials who represent them, does have some value. However much greater than any benefit to the individual workers who win their own cases is the more general one of establishing principles which can then be taken up outside the courts. The publicity which surrounds a particular case may in itself serve to boost the confidence of other, similarly placed, workers to assert their rights, but perhaps even more importantly it can give an impetus to collective action. Once the rights established in principle by the courts are enshrined in collective agreements there is a much greater chance that they will be observed in practice. Under a collective agreement, workers are more likely to be aware of their rights and there are agreed procedures to be followed, backed up, if necessary, by the possibility of collective action, to enforce them.

Using the existing laws is one way of helping ‘flexible’ workers to win their rights. Another is to campaign for new laws, or amendments to existing ones, which will give them greater protection and equality with full-time, permanent workers.

Exactly what such new legal provisions should consist of is a matter of some controversy. Riki Holtmaat expresses the dilemma,

“Total equalisation to the rigid, male model of work will not make it more easy for women to participate in paid labour. Equalisation of work to this model without questioning the model does not bring any solution to the problems women (and men) have in combining different tasks and roles in life.

“There are two solutions to this problem: make all working conditions more flexible in the sense that women and men are treated as fully human beings; or, make some special rules for those people who cannot or will not work in accordance with the current male model.”

While aware that any ‘special treatment’ for particular groups of women workers could result in confirming their secondary role, she herself favours the second approach, at least in the short term.

“As the first route is a long term route with - in a time of economic recession - a very slow motion towards improvement, I believe that as a temporary measure some kinds of ‘special treatment’ of flexible workers are necessary, in addition to equalisation of their position in many respects. By this I do not mean preferential treatment, but special treatment, by making some rules which apply only to these workers, and are designed to meet their special needs, for example, the right to say no to an offer of work in certain circumstances, or the right to know in due time when and how much work is going to be offered.”

In practice, most groups campaigning on behalf of ‘flexible’ workers have resolved such conflicts by recognising that long-term and short-term demands can comfortably co-exist. For instance the Dutch FNV has a policy of opposition to on-call contracts, but recognises that, while they still exist, it is necessary to regulate them, so it is also campaigning for all such contracts to stipulate a guaranteed minimum number of hours.

The process of drawing up new regulations is a complex one, which must take account of representations from many different interest groups. With the prospect of EC-wide harmonisation of employment and social security legislation after 1992, major changes to existing laws are likely to be made. It is therefore particularly important that the requirements of ‘flexible’ workers are placed firmly on the agenda now, to ensure that they are

taken fully into account when these changes are agreed. Such legal changes, along with what we consider to be some of the other changes required to protect the interests of flexible workers and broaden the options available to them, are the subject of the next chapter.

TOWARDS A BETTER FUTURE

In contrast with the previous decade, when there were moves in virtually all industrial countries to grant new rights to workers and to women, the 1980s have been a period of deregulation. In Europe, the Conservative British government has led the way in many respects, by dismantling much of the employment protection legislation of previous Labour governments and privatising public services. It has added new legislative controls only in order to curb the powers of trade unions and local government which it has presented as barriers to the free flow of market forces.

In the Netherlands, as in other EC countries, it has been argued by the Christian Democrat-dominated government that the introduction of a single European market in 1992 will make it impossible for Dutch firms to compete with their British counterparts unless they have similar freedoms to hire and fire workers and to pay the 'market' rates. It is also suggested that, with a free movement of labour within the European Community, countries with better social security provisions will become flooded with migrant workers from countries where the unemployed are worse off. If they are small countries like the Netherlands, this will place an intolerable burden on taxpayers. Such arguments set the stage for a massive levelling down, both in social security provisions and in employment protection, throughout the EC in the wake of 1992.

Ironically enough, the British government is resisting fuller legislative integration into the EC precisely because it fears a levelling up in these areas. Arguments about national sovereignty mask a dread that much of the Thatcher achievement of creating what is in many respects the most deregulated labour market in Europe will be undone by the need to install certain basic rights for British workers to bring them into line with their European counterparts, as proposed by the advocates of a European Social Charter.

As we have noted in earlier chapters, part-time and temporary women workers in Britain and the Netherlands have a great deal in common. They would stand to gain considerably if 1992 were to bring them more firmly within the remit of the employment protection which is available to permanent, full-time employees and to grant them new rights, some of which already exist in other EC countries. In other words, their interests would best be served by a levelling-up, rather than a levelling-down, when employment and social security legislation is harmonised.

A time like the present, when this legislation is up for discussion in any case, is an ideal moment to place new demands on the agenda. The introduction of the single European market provides a unique opportunity to make common cause with like-minded groups in other EC countries to work out a common platform of demands, and organise to ensure that they are achieved.

Tentatively, and in a spirit of contributing to a wider debate, not trying to impose a dogmatic programme, we suggest the following demands:

- the clear right to employee status (in other words, the automatic existence of a *de facto* contract of employment or normal labour contract) for all workers regardless of the number of hours worked, the duration of the employment, or the location where the work is carried out (the only exception to this being in the case of genuine freelances or proprietors of small businesses who carry out single short-term tasks for a large number of different clients. In such cases, the onus of proof should be on the employer, not the worker). This employee status should give the worker exactly the same rights as any other employee, and the same benefits on a pro-rata basis.
- a statutory minimum hourly wage for all workers regardless of industry or the number of hours worked.
- regulations to ensure any contract involving the performance of work, the wages and conditions of employment in the subcontracting organisation must be at least as good as those prevailing in the organisation from which the contract originates. In this context, the term 'conditions of employment' should be interpreted to include any equal opportunities

provisions included in collective agreements in the organisation concerned.

- the integration of the tax and National Insurance systems into a single graduated income tax system in which employees pay tax only on earnings above the threshold and with a system of credits for those whose earnings fall below the threshold. The introduction of a 'social security payroll tax' on employers.
- a stipulation that all contracts of employment specify the number and distribution of the hours to be worked. The hours stated in the contract should be paid for, even if the work is not available. If work in addition to these contracted hours is required, the worker has a right to refuse to work them without penalty, and to be paid overtime rates or an unsocial hours bonus for working them.
- regulation of employment agencies to ensure that they are not used by primary employers as a device to evade their responsibilities to their employees. If staff are assigned to the same employer for longer than a specified period then they should have an automatic right to become permanent employees of that employer. Where there is genuine need for temporary staff, agencies must themselves act as permanent employers to their staff, providing the same leave, pensions and other welfare entitlements as other employers, and paying a regular salary and giving notice of redundancy regardless of temporary changes in the market for their services.
- the introduction of a statutory right to a period of parental leave for an employed parent to take time off from paid work to care for his or her child.
- the introduction of a statutory right to a minimum number of days of paid leave each year for reasons such as the illness of a child or other dependant, or a breakdown in the care arrangements normally made.
- support by all EC governments for the EC's Draft Directive on Voluntary Part-time Work, which establishes the principle of non-discrimination between part-time and full-time workers.

● amendment to the legislation concerning discrimination on the grounds of sex, race or marital status to ensure that the number of hours worked, the duration of employment and the location of work are not considered as material differences preventing the application of the principle of equal treatment.

● statutory co-determination rights for trade unions to ensure that employers cannot unilaterally make changes to working hours or the location of work or substitute agency or subcontracted workers for permanent employees without consultation and agreement.

● statutory rights to rest and refreshment breaks for any period of work in excess of three hours, regardless of the total number of hours worked by the employee.

● statutory controls on the ways in which data on individual workers collected by means of information technology may be used.

Although they are difficult to enshrine in statutes, there are a number of other facilities which are urgently required by women workers if equality of opportunity is to be a reality. These include:

● full-time day-care facilities for pre-school children, and at the beginning and end of the school day and during school holidays for older children.

● full-time day-care and 24-hour respite care at regular intervals for incapacitated elderly people, people with disabilities and other people needing care in the community.

● access to training for all who require it, provided in ways which are relevant to women's needs e.g. part-time courses with crèche facilities for women with young children; classes in appropriate languages and cultural settings for people from ethnic minorities.

● safe and reliable public transport facilities to enable women to travel to work when and where they wish.

While recognising that this list is not exhaustive, nor, in many cases, specific enough to be directly translatable into practice, we hope that it will provide a useful starting point for debate. All the signs are that the casualisation of employment is likely to increase in the coming years, and that women are likely to be the main casualties. Particularly hard-hit, because of their concentration in low-paid and insecure employment, will be black, ethnic minority and migrant women. A Europe-wide public discussion of these issues has only just begun. If we have made a productive contribution to this discussion, then this booklet will have served its purpose well.