Beyond the outsider/insider divide: regulating for inclusive labour markets.

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Outline

• From citizenship at work to the insider/outsider debates
• Lessons from segmentation theory, gender and regulation analysis
• Reforming regulation-
  a) Disentangling the multiple functions of regulation
  b) Towards a reform agenda beyond the outside/insider debate
Citizenship at work

• All in workplace are citizens of the workplace
• All workplaces to treat workers as ‘citizens’ with rights
• Status in workplace should not affect access to core citizenship rights (e.g. social protection)
• All in locality should have reasonable access to workplaces
The insider/outsider debates

Mainstream
• Regulation restricts entry and worsens conditions for outsiders - divide exacerbates uneven impact of recession
• Problem of regulation now more about disadvantaged groups not overall performance

Non mainstream-
Political science - Protects median voter at expense of outsiders/ risk of political extremism (Rueda, Standing)
Social policy - Labourist / antagonistic to interests of growing precariat (Standing)
Feminist - SER- centric regulation excludes women/ fails to value care work (Fraser, Vosko, Fredman, Standing, Supiot)

Legal
• SER-regulation may not be sustainable (Stone and Arthurs, Freedland)
• SER- centric regulation for non standard workers recreates hierarchy (Vosko, Fredman)
The insider/outsider debates

Positive contributions
Highlights key deficiencies of current regulatory framework-
• lack of value attached to unpaid care work
• precariat deprived of social rights/reforms still leave some outside
• increasing problems in identifying the ‘employer’
• opportunities for employers to evade employment rights
• increasing coercion on precariat and carers
• disenfranchisement of precariat from politics
The insider/outsider debates

Negative or dangerous elements

• feeds deregulation fever
• attributes causes of inequalities to insiders- not capital and the state
• legitimises equality through levelling down (e.g. public sector)
• misinterprets interests of outsiders- need protection from discrimination not more competition
• gives up on the possibility of regulations shaping employment practices i.e. extent of non standard work taken as a given
• places too much faith in a benign and all powerful state- question marks over both the intentions and the ability of the state to act in the interests of inclusion in era of austerity
Rethinking citizenship at work

Segmentation theory
• Employers matter- architects of employment and gatekeepers- should not to be allowed to become invisible and non responsible
• Employment matters- need high trust relationship for productive workplaces- insiders matter

Gender analysis
• Inequalities due to women’s involvement in unpaid care work- need to revalue care work
• But change comes through labour market involvement and welfare states, not spontaneous change in domestic relations
• Gender inequalities within wage work, not just between wage and unwaged work

Institutional/legal theory
• Need regulations but also need supportive institutions for implementation/enforcement
• Reliance on state insufficient and dangerous in age of austerity
Multiple functions of employment regulation

- Income and employment security
- Fair conditions of employment
- Social protection/health
- Productive economy
- Stable economy
- Voice
- Human rights
- Equality of opportunity
- Fair conditions of employment
- Income and employment security
- Social protection/health
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- Human rights
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- Fair conditions of employment
The beyond the insider/outsider approach

For each separate function of employment regulation

• Identify the outsider issues (inside and outside workplace)

Three-pronged approach to integration

• Consider disconnecting rights from employment status (more inclusive citizenship not only employee-based protection)

• Consider extending rights at the workplace/ increasing obligations on employers (extended Standard Employment Relationship)

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

Problems of exclusion should not lead to ‘throwing baby out with the bathwater’
• Destruction of regulation is highly politically risky
• Still need to hold employers to account
• SER-type relationship still dominant in OECD – need to find ways to extend also to developing world as otherwise development goals may stall
• SER-type relationship still necessary for productive workplaces- trust/commitment etc.

Need to recognise multiple functions of employment regulation
• Disconnect individual rights and protection from employment status where feasible
• Extend and protect SER-linked rights where possible

Action on three fronts – social policy, employer responsibilities, individual rights and collective action
• Aim to promote self sustaining institutional checks and balances
• Unwise to rely only on state-based minimum floors/protection in periods of recession and austerity.