

Distributive Justice and Precarious Work

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Background

Precarious work has become the norm for young adults in North America and elsewhere.¹ Where once it was normal to settle into a permanent position shortly after secondary school, it's now fairly typical to spend a few (often more than a few) years working part time jobs while pursuing a post-secondary education. And for many, precarity doesn't end when one finishes one's degree. Becoming competitive in many industries now requires one to spend years working on a contractual basis, sometimes for the same employer and sometimes for different employers, all the while not knowing where or if one will be working months down the line.

Precarious work is tolerable when it serves as a stepping-stone to permanent, fulltime employment. Knowing that the uncertainty about wages, geographic location, work conditions, etc., will pass and that the work one is currently doing will ultimately contribute to one's long term professional wellbeing makes the hardship less hard. Unfortunately, though, precarious work often isn't like this. In academia, for example, many professors get stuck jumping from teaching contract to teaching contract, teaching more and/or being paid less than their permanent colleagues, and lacking sufficient time to do the research necessary to become competitive for tenure-track positions. Issues surrounding the precarity of sessional academic employment were recently highlighted and made publicly visible when thousands of college faculty and other college workers affiliated with OPSEU (Ontario Public Service Employees Union) went on strike on Oct 16th, 2017.² Issues motivating the strike included lack of faculty control over course content and pedagogy, as well as a lack of job security and inadequate compensation.³ The strike only ended when back-to-work legislation was passed on Nov 19th.⁴

There's a large body of literature concerning both the demographics of precarious employment and the effects precarious work has on people who do it. The findings of this literature

¹ For extensive discussion of this trend, see Bessant, et al (2017).

² "Ontario College Strike Begins Monday Morning as Employer Rejects Faculty Offer." Available at: <https://opseu.org/news/ontario-college-strike-begins-monday-morning-employer-rejects-faculty-offer>

³ "College Faculty Union Launches Ad Campaign on Bargaining Issues." Available at: <https://opseu.org/news/college-faculty-union-launches-ad-campaign-bargaining-issues>

⁴ "Labour Needs a Strong NDP to Tackle Precarious Work." Available at: <https://opseu.org/news/labour-needs-strong-ndp-tackle-precarious-work-opseu>

are concerning. With respect to demographics, young adults clearly make up a large proportion of the precarious workforce,⁵ but a disproportionately large number of women, as well as members of racial minorities, find themselves precariously employed, too.⁶ And with respect to effects, there's reason to believe that the precariously employed face higher levels of employment related strain. Less control over work conditions, the need to balance the demands of multiple employers, effort spent securing references and applying for future contracts, and lack of support in the workplace: all of these things are commonly associated with precarious work, and the strain they cause can negatively affect workers' health.⁷ In combination, the demographics of precarious work and its effects on workers raise issues of justice.

An additional concern associated with precarious work is the effect it has on the character of workers. Traditionally, the workplace was a place where workers could, and often would, form lasting, trusting relationships with their coworkers. For the precariously employed, however, there's little opportunity to develop such relationships. Though some forms of trust can be secured easily enough, e.g., the formal trust achieved via a contract, other forms of trust take time to develop, e.g., the informal trust between coworkers who have developed an unspoken reliance on each other to provide support where needed. The latter sort of trust goes hand in hand with cultivating a close relationship with one's coworkers, and forming close bonds is difficult when one is only temporarily employed. What's more, loyalty may not be an especially functional value in precarious employment. A sense of loyalty makes it difficult to let go of workers whose contracts have expired, and it makes it difficult for workers to leave a position for a superior contract at another location or establishment. All in all, precarity seems un conducive to, and may undermine, the cultivation of virtues like trust and loyalty.⁸

Though it raises concerns, precarious work can have its benefits. The availability of part time and contractual positions affords some people who would otherwise be unable to work the opportunity to do so. Good examples include students whose academic responsibilities preclude taking on a fulltime job, as well as caregivers whose primary responsibility is child-care. What's more, the availability of certain forms of precarious work suits some people's lifestyle. For example, overseas contract work presents one with the opportunity to spend a year or two in a

⁵ See Bessant, et al. 2017.

⁶ See Vosko, et al., eds. 2009.

⁷ See Lewchuk, et al. 2011, pp. 25-31.

⁸ For a discussion of precarious work's effect on character development, see Sennett 1998, especially chapter 1.

foreign country, and this has proven to be appealing for many young adults who'd like to travel and experience the world before settling down. Finally, it seems that some people prefer self-employment to other forms of employment, as it can afford one more rather than less control over one's work conditions than traditional employment. Being self-employed can yield a considerable amount of autonomy with respect to when one works, how much one works, etc.⁹ What should we make of this medley of ostensibly negative and positive qualities?

Analysis

Our evaluation of precarious work depends on a number of different factors. An important one is the definition we adopt. What exactly is meant by the term 'precarious work'? The term is commonly used to refer to a number of different kinds of work: to self-employed work, migrant work, contractually limited work, and part-time work. Is there something that unifies all these kinds of work? Following Leah Vosko and the editors of *Gender and the Contours of Precarious Employment*, we should perhaps think of precarious work as "employment that lacks standard forms of labor security."¹⁰ More concretely, we can say that precarious employment is characterized by things like less compensation, fewer benefits, and lack of permanency.

Our evaluation also depends on the theoretical perspective we take. Comprehensively analyzing precarious work requires that we reflect on broader questions and theories of distributive justice: the branch of justice that examines the fair distribution of benefits and burdens. How one responds to precarious work depends in part on whether one subscribes to a view of distributive justice that sees transactions in the free market as a just basis for distributing goods, a view that accords government a significant role in regulating the market and redistributing goods to remediate inequalities, or a view that sees current economic institutions as instantiating structural injustice based on unequal power relationships between workers and employers.

According to most libertarians, economic transactions are only problematic in cases of theft or fraud. So long as the parties to a transaction did not acquire their holdings either directly or indirectly through theft or fraud, and so long as they do not commit theft or fraud against each other, then the outcome of their transaction is deemed fair. If one holds this sort of view, it arguably

⁹ For a sympathetic look at precarious employment, see "In Praise of 'Precarious' Work." Available at: <http://www.canadianbusiness.com/business-strategy/in-praise-of-precarious-work/>

¹⁰ See page 2 of the introduction in Vosko, et al., eds. 2009.

follows that there's nothing wrong with employers offering part-time work, short-term contracts, etc. So long as employees are working voluntarily, then precarious work is perfectly fair, from a libertarian point of view. Workers who don't like their wages or work conditions are free to leave and find work elsewhere.

Socialists, by contrast, would take the opposite position. From a socialist perspective, it seems that the rise of precarious employment is a predictable effect of a system where the means of production are privately owned. According to socialists (specifically Marxists), capitalist economies are built upon exploitation. Economic growth requires that some fraction of a business's earnings be reinvested back into it, and since providing workers with compensation equal to the full value of their labor would leave no resources for reinvestment, economic growth requires that some fraction of the value workers create be taken from them. In other words, economic growth requires exploiting workers. From this perspective, precarious work is best understood as contributing to the exploitation which capitalism requires. The features that characterize precarious employment, i.e., less compensation, less benefits, lack of permanency, etc., are made possible by the fact that workers lack ownership of the means production, and these features function to allow capitalists to further cut costs and thereby expand their businesses. Socialists would thus likely see precarious work as another form of exploitation within an inherently exploitive system.

A second criticism that socialists would likely make of precarious work is that it further alienates workers from the product of their labor. Socialists maintain that in pre-capitalist societies, workers had a special relationship with what they produced. For example, craftsmen, by employing talents developed through years of training, would create a good that was uniquely their own. Such production was a source of fulfillment. By dividing labor and mechanizing production, capitalism turned workers into metaphorical cogs that lack the relationship they once had with what they produce. Instead of being uniquely responsible for the production of a small number of goods, individual workers in a capitalist society play a small role in the production of a very large number of goods. Finding fulfillment in the repeated pulling of a switch or pressing of a button on an assembly line is ostensibly more difficult than finding fulfillment in crafting an item. This problem, though not specific to precarious work, is arguably exacerbated by it. Though playing a small, repetitive role in producing a large number of goods is not very fulfilling, it's arguably easier to find fulfillment in a workplace one's permanently employed at. A permanent employee has a

greater opportunity to develop the sense that she's a member of a larger team, and thus to take pride in what that team produces. For temporary workers, however, this sense of connection is more difficult to come by.

From a liberal egalitarian perspective, precarious work is a complex matter. According to the most significant liberal egalitarian in contemporary political philosophy - John Rawls - economic inequalities between citizens of the same society are only just when (a) they are consistent with equality of opportunity, and (b) they maximally benefit those who are worst off. If those with less did not have the same opportunities to attain wealth as those with more, and if the greater share of those who have more does not work to the benefit of those who have less, e.g., by incentivizing the use of productive talents that raise everyone's absolute position, then the inequality between them is unjust. From this perspective, precarious work can be but isn't necessarily unjust. Precariously employed workers seem to be worse off than other workers, by and large, but that in and of itself is not a source of injustice. What matters is whether the inequality between them and other workers is in their (precarious workers') benefit, and whether it's consistent with equality of opportunity.

With respect to equality of opportunity, a major consideration is whether any particular case of precarious work is transitional or not. Students working part time jobs and contractual employment that reliably leads to permanent employment are both fine, from a liberal egalitarian perspective, because they don't reflect class hierarchy. Though students and contract workers find themselves in inferior working conditions by comparison with those in fulltime permanent employment, this is relatively unproblematic so long as it's merely a phase in one's life. If those who enjoy fulltime permanent employment were required to go through such a phase themselves, then there's no unfairness between them and their precariously employed colleagues. Precarious employment is just part of the training process, and anyone who works hard and has the requisite skills will secure better forms of employment, in time.

When precarious employment is not just a phase, the question to ask, from a liberal egalitarian perspective, is why? Is it because precarious jobs are the only kind available and there aren't opportunities for workers to develop their qualifications and obtain more stable employment? Is it because precarious employment suits workers' lifestyle? Or is it because those who are precariously employed lack marketable talents (as well as the natural capacity for those talents)?

In cases where precarious jobs are the only ones available to some workers, precarious employment constitutes a clear violation of equality of opportunity. Correcting this inequality might require any number of things, for example, improving access to post-secondary education so that training is easier to secure, or regulating precarious positions to ensure that workloads aren't excessive and that hidden costs (such as moving around and repeatedly applying for jobs) are compensated for or otherwise mitigated.

In cases where precarious employment is a lifestyle choice, liberal egalitarians have less cause for complaint. Inequalities in the distribution of resources that reflect lifestyle choices, e.g., the choice to be self-employed or the choice to work part-time in order to pursue other interests, do not reflect unequal opportunity. Still, liberal egalitarians would perhaps be concerned to ensure that the distribution of resources not become too unequal between those who've chosen precarious employment and those who've chosen fulltime permanent work. After all, inequalities are supposed to work to the benefit of those who are less well off, even when the less well off are less well off by choice. When navigating this problem, it's important to be conscious of the metric one employs. Rawls himself was concerned specifically with inequalities in the distribution of goods, and thus his theory ostensibly commits him to subsidizing citizens' lifestyle choices, i.e., to redistributing goods from those who choose to work harder and longer to those who've opted for a greater amount of leisure.¹¹ However, for those who include wellbeing in their metric, i.e., those who are interested in the distribution of satisfaction, it's less obvious that there's any significant inequality between those who prefer to work more and those who prefer either more leisure or less burdensome work. Those who work less may have fewer resources at their disposal, but that doesn't mean they're less happy. Some may very well be happier than those who've chosen to work long hours.¹²

In cases where precarious employment reflects a lack of natural capacity for marketable talents, liberal egalitarians like Rawls would ostensibly be concerned to ensure that any inequalities work to the benefit of the precariously employed. Resource inequalities traceable to a lack of natural ability do not reflect inequality of opportunity (on Rawls's understanding of it), but

¹¹ See Kymlicka 2002, pp. 72-5. In response to the claim that his theory requires subsidizing citizens' lifestyle choices, Rawls has suggested that leisure time be included among the list of primary goods his theory is concerned with distributing. With this inclusion, those who opt for more leisure would not be counted among the least well off. Whether Rawls's reply is adequate is an open question. See Rawls 2001, p. 179.

¹² For discussion of labor burdens and including welfare in the metric of justice, see Cohen 2008, pp. 101-7.

the state would have to ensure that the superior earnings of those with more natural ability maximally benefit those with less ability. The problem is that it's unlikely that lack of natural ability is ever a good explanation for why someone becomes stuck in precarious employment. Though some jobs require talents that some may lack the capacity to develop, e.g., accounting, engineering, etc., and others only require abilities that the majority of adults either possess or could possess, the fact that jobs of the latter sort are sometime offered on a precarious basis has little to do with the talents they require. With the exception of seasonal work, the reason employers offer positions on a part time or contractual basis is because it's cost effective for them to do so. As such, liberal egalitarians seem committed to eliminating precarity in cases like this, or at least to ensuring that mechanisms are in place that protect precariously employed workers' ability to transition to fulltime permanent work.

Discussion Questions

1. Is capitalism an inherently exploitive system? Does economic growth require exploiting workers, or can exploitation be avoided through regulation?
2. How often is precarious work freely chosen by those who do it? Are those who find themselves 'stuck' in precarious work responsible for their own situation?
3. Do you think that precarious employment is unfair to workers? If so, is it always unfair, or is it only unfair in certain cases? Are there certain conditions that, if met, suffice to make precarious employment fair?
4. How does citizenship affect the fairness of precarious employment? Does it matter whether a precariously employed worker is a foreign migrant or a citizen? Why or why not?
5. What does equality of opportunity require? Is precarious employment compatible with it? And is there a relationship between equality of opportunity and the distribution of natural talents and natural capacity?

Further Readings

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