

**A**  
**Critical Analysis**  
**on the Rise**  
**of *Precarious***  
***Work***  
**in the**  
**Neoliberal Age**

by D.M.

**“The chance to be exploited in a long-term job is now experienced as a privilege.”**

**- Slavoj Žižek**

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## INTRODUCTION

**P**recarious work, though not new, is a rising phenomena worldwide. This essay argues that worker precariousness is a very much anticipated effect of capitalism and by extension, neoliberalism, and cannot effectively be resolved in an economy that incentivises worker exploitation. The phenomenon of precarious work was predicted by Karl Marx as an act of the bourgeois to improve profits.<sup>1</sup>

At the very outset, there is a distinction to be made within the cohort of precarious workers. Those in under-developed countries are different from those in developed economies. While most of the difference revolves around the scale of precariousness and instability that both groups face, those in developed countries generally (with the notable exception of the U.S.A) have some form of a social safety net to rely on. In countries such as India, this is non-existent, and means the precarious worker faces poverty and degradation in a much more immediate way. In India, more public sector jobs than private sector ones are precarious,<sup>2</sup> a

stark indicator of the scale of the problem.

The gig economy generally, but not exclusively, refers to first world countries more than others, and they are a subset of precarious workers. The sharing economy, represented by platforms such as Uber, is “neoliberalism on steroids.”<sup>3</sup> These platforms do exist in countries such as India, but the choice in engaging with them is far more limited, as we will explore below. In essence, the gig economy is marketed on the premise of “choice” and is supposedly more beneficial to the worker in terms of flexibility, work life balance and skill development. This narrative has been pushed by many of the gig platforms, and even governments see them as a route to full employment. Whether this choice really exists is questionable, and the ultimate assertion is that the choice between poverty and degrading employment is no choice at all. All workers have a right to decent work, “a wage that enables workers to support their household, basic social security protection, contractual stability, protection from unjustified termination of employment, and effective access to freedom of association and collective bargaining.”<sup>4</sup> Does precarious work provide this?

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**“Precarious work is not a challenge; it is a meticulously constructed assault.”<sup>5</sup>**

## PRECARIOUS WORK

Precarious work is work that may be temporary, stand-by, pseudo self-employment or that with unclear employer-employee relationships,<sup>6</sup> in which employer responsibilities are vertically disintegrated over a lengthening sub-contracting chain<sup>7</sup> all with a violation of labour standards.<sup>8</sup> There is no protection against dismissal, and a lack of collective bargaining rights and labour benefits. It engages in regime shopping for the weakest and most exploitable labour conditions, and tends to hire the most economically vulnerable workers who have no bargaining power.<sup>9</sup> Precarious work has four dimensions: uncertainty over continuing employment, lack of control over the labour process, lack of regulatory protection and low wages.<sup>10</sup>

It is essentially the forms of work that have been redefined by employers to reduce labour costs, improve flexibility<sup>11</sup> and diminish the ability to unionize.<sup>12</sup> Work relations are hyper-individualized, and workers assume the burden and risks of work using their own tools, while employers appropriate the surplus.<sup>13</sup> Precariousness is normalized as individual choice, and flexibility is the trade-off for the ability to choose how they work.<sup>14</sup> This informality,<sup>15</sup> the low wages and limited social security is causing workers to be entrenched in poverty.<sup>16</sup> This “precariat”<sup>17</sup> are forced to accept jobs, especially as governments push these as an “empowering” alternative to unemployment.<sup>18</sup> In countries such as Australia, this is a policy move aimed at satisfying employers with unattractive jobs. The “precariat” is created by the

“interaction between abuse of economic power, economic liberalization, global capital mobility, fierce lobbying against protective labour laws, and a whole range of state policies guided by economic thinking that believes in the efficiency of free markets.”<sup>19</sup> It is the result of increasing competition, and it increases competition in its turn.

## THE IDEOLOGICAL DIMENSIONS OF PRECARIOUS WORK

The first and most important point is that there is a “strong ideological dimension to the rise in precarity.”<sup>20</sup> It is often argued that precarity is the result of “a broader conservative offense that began with the neoliberal turn of the 1980s.”<sup>21</sup>

**The ideological barrier of a capitalist economy prevents real change in the condition of labour. This is because profit can be extracted only from the surplus value that labour creates,<sup>22</sup> and the only way to improve profits is to reduce the cost of labour, which is what we see in precarious work.<sup>23</sup>**

The Gini coefficient, and the gap between the rich and the poor, has been increasing consistently, and the underlying cause is the explosion of precarious work, increase

in profits, and decline in real, profitable investment.<sup>24</sup> The share of profits in GDP has increased, whereas the share of wages has decreased.<sup>25</sup>

The global financial crisis, instead of showing the flawed economic model, has increased the demand for flexibility and precariousness, further deepening the fault-lines.<sup>26</sup> The resulting austerity measures created conditions of deprivation and a lack of social cohesion that lead often to social unrest and resentment.<sup>27</sup> Precarious work has a number of regulatory dilemmas that have become sharper with the rise of neoliberalism, that unleashed market forces at the cost of regulatory protection.<sup>28</sup> In Ireland, the crash did not increase precarious work, but was seen as an opportunity to erode labour protections.<sup>29</sup>

A persistent argument by capitalists has been that profit is the reward for the risks that an entrepreneur takes.<sup>30</sup> This argument is less and less relevant, since precarious work is essentially a shift of the risk from the employer to employee.<sup>31</sup> This further diminishes the legitimacy of profit. In the development of capitalism, “precariousness is the historical rule – the permanent exception to its promise.”<sup>32</sup> Employment under capitalism has always been governed by the investment cycle.<sup>33</sup> Capitalism is, in fact, not geared towards efficient resource allocation. It channels funds into wasteful financial bubbles, or causes over investment.<sup>34</sup> This speculative investment does not create real value,<sup>35</sup> and the need to satisfy these investors creates a pressure on labour standards.

## NEOLIBERALISM AND PRECARIOUS WORK

Neoliberalism is a political-economic theory that proposes that humans can best advance by “liberating individual entrepreneurial freedoms and skills within an institutional framework characterized by strong property rights, free markets, and free trade”<sup>36</sup> and emphasizes the triangular relationship between the individual, the market and the non-interventionist state.<sup>37</sup>

These policies focus on the free market, fiscal discipline over social protection,<sup>38</sup> financial liberalization, deregulation and privatization,<sup>39</sup> a limited welfare state, lower taxes and decentralized labour relations. However, the state is still required to maintain the institutions on which the economy rests.<sup>40</sup> It uses “wonderful-sounding words like freedom, liberty, choice, and rights, to hide the grim realities of the restoration or reconstitution of naked class power.”<sup>41</sup> There has been a shift from the law to the market to achieve labour standards. Employment is not decided only by the free market, but also by fiscal and monetary standards. In the neoliberal era, fiscal and monetary policy is aimed at preventing inflation rather than unemployment.<sup>42</sup>

Neoliberalism is the reorganization of capital where the hegemony of capital displaces Keynesian welfare, particularly in advanced industrialised nations. It is essentially the dismantling of the welfare state, breaking of union power and therefore resulting in the precarity of labour.<sup>43</sup> The fact of the matter is that the welfare state and collective bargaining

made capitalism “bearable.”<sup>44</sup>

Precarious work is not an inevitable consequence of globalization, but “the outcome of deliberate policies to use the opportunities of globalization to change the rules of the game.”<sup>45</sup> It is a result of the change in employment and production patterns, from the industrial to the service sectors, “just in time” production and the rise of the knowledge worker. It is the perspective that precariousness is not an unintended effect, but the solution to unemployment.

The reserve army of labour “enduring and indispensable feature of capitalism.”<sup>46</sup> Without a contingent workforce, rising labour standards would cause wages to rise and profits to fall. This reserve army has to demand rights outside the zone of legality, and this is a breeding ground for precarity.<sup>47</sup> In this context, workers operate in a buyers’ market<sup>48</sup> and making work flexible, casual and informal has been a means of disciplining labour.<sup>49</sup>

Precarity is seen as an exception to the normal growth of capitalism, and has resulted in calls for the return to the so-called golden age of capitalism.<sup>50</sup> However, one of the primary aims of neoliberal policy is weakening labour and strengthening capital.<sup>51</sup> Integration of the formerly planned economies, such as of the socialist bloc and former colonies, into the world capitalist system has thrown millions of workers into new forms of employment.<sup>52</sup> The organized labour of the global north may have worked well for some, but it insufficient to counter the ever increasing drive for profits.<sup>53</sup> In this context it is clear that neoliberalism deepened precarity.<sup>54</sup>

Another interesting facet of neoliberalism

is that capital bears no responsibility for the social reproduction of labour.<sup>55</sup> This means that care work, largely delegated to women and migrants, is invisible and precarious. These groups are the “cushion” of neoliberalism.<sup>56</sup>

## ADVANTAGES OF PRECARIOUS WORK

The benefit of this form of work is reaped nearly exclusively by the capitalist class. Concerningly, and in what is a stark example of the pervasiveness of capitalist propaganda, this form of work is packaged as “empowering” for the workers. It allegedly provides flexibility, the benefits of which are to include greater work-life balance, control of schedules and improved productivity and well-being.<sup>57</sup> This enforces a perceived sense of control.<sup>58</sup> Flexible work can also improve labour force participation, increase capital and labour productivity, stimulate consumption and create a consumer surplus.<sup>59</sup> Another justification is that many gig economy workers already have full time jobs with benefits, and so it is unnecessary to extend protection.<sup>60</sup> This itself is concerning – why do workers with full time jobs even need to participate in the gig economy? In a situation where even a full-time job with benefits is not enough to ensure a reasonable standard of living, what hope do these temporary, powerless workers have?

In interesting evolution of this “flexibility” is that it has changed from allowing greater work- life balance to essentially having workers perpetually on-call as a marker of such adaptability. Businesses have a number of advantages in

precarious work: greater flexibility, lowered labour costs, and layoffs are no longer seen as a sign of distress but that of efficiency, incentivizing it further.<sup>61</sup> The benefits of the gig economy are shared partly by the shareholder and partly by the consumer, with the burden falling on the working class.<sup>62</sup>

## ISSUES, EFFECTS, AND CONCERNS

Precarious work is a time-tested business model of labour exploitation. In this economy, workers have gigs and not jobs, and rarely have any legal protections. Firms avoid employee status to evade legal frameworks and prevent unionizing. Firms are engaging in a race to the bottom on labour standards.<sup>63</sup> Dangerously, flexibility, from meaning greater work life balance, has come to mean a situation where staff are required to prove their flexibility by being permanently available.<sup>64</sup>

A major issue is that firms that may not want to operate on this model, and may want to maintain labour standards, operate at a cost disadvantage.<sup>65</sup> This means that eroding labour standards is incentivised. The cost of investment has become flexible labour standards and dismantling of collective bargaining rights.<sup>66</sup>

Technology has led to a downward pressure on employment and wages,<sup>67</sup> but these innovations should not reduce welfare.<sup>68</sup> Technology has caused the evolution of workplaces, and exposed a number of regulatory gaps.<sup>69</sup> Even countries that have legal frameworks to combat precarious work cannot keep up

with the online platform and the scale of the problem.<sup>70</sup> Oftentimes, especially with new platforms such as Uber, higher wages are advertised. However, even if the wages are more (which has been proved untrue), this can be attributed to the lost benefits and the personal cost.<sup>71</sup> Uber, and the gig economy generally, may “represent and reinforce post-capitalist hyper-exploitation.”<sup>72</sup>

Undocumented immigrant labour is a state of (highly profitable) hyper-precarity.<sup>73</sup> These immigrant workers are crucial to global capitalism. It creates a scarcity of jobs and extracts discipline. In this context, it is clear that the denial of civil and political rights to immigrants is designed to control rather than prevent immigration, and to keep migrants locked in a permanent state of profitable insecurity and vulnerability.<sup>74</sup>

**In fact, migrant workers represent the perfect capitalist workforce: commodified, exploitable, expendable and flexible.<sup>75</sup> The ways in which capitalist systems demonize while simultaneously exploiting immigrant labour is itself an important issue that needs to be analysed from a critical perspective.**

The role of international organizations, particularly those bankrolled by capitalist states, such as the IMF and World Bank, cannot be underestimated.<sup>76</sup> For example, in South Korea, the number of precarious workers rose dramatically as a result of neoliberal reforms under IMF guidance.<sup>77</sup>

In many societies around the world, precarious working conditions is causing people to delay or opt out of having families.<sup>78</sup> This is eroding the social safety net that states depend on for unpaid care work and is also reducing the next generation of workers. The normalization of precarious work is already showing deeply disturbing social effects.<sup>79</sup> Precarious workers suffer a higher rate of occupational health and safety concerns, and research shows a link between such work and lifestyle diseases,<sup>80</sup> occupational health hazards<sup>81</sup> and mental health issues.<sup>82</sup> It also impacts the family members of these precarious workers.<sup>83</sup>

**“[P]recarious workers are united in their experiences of anger (due to blocked aspirations), anomie (a passivity due to despair about not finding meaningful work), anxiety (due to chronic insecurity), and alienation (due to lack of purpose and social disapproval).”<sup>84</sup>**

## BARRIERS TO REGULATION

Labour law rests on the assumption of clear employee-employer relationships.<sup>85</sup> One of the central issues with the employment contract is that it emphasizes the central male breadwinner model. It also privileges waged work over unpaid work, which excludes a large proportion of workers from protection. In truth, such a contract does not characterize even most work in a country such as India.<sup>86</sup> Are these emerging forms of employment substantially new, or just a different manifestation of contingent work?<sup>87</sup> This researcher opines that these forms of work are essentially the same forms of precarious work that have been in existence, with the exception that the gig economy is marketed as a choice, whereas workhouses were ignored but not glorified. Defining these forms of work is a major barrier to regulation.

The commodification of labour by capital is widely discussed. It is argued that labour is a commodity because it can be bought and sold, but not a commodity in the sense that it cannot be stored, transferred or separated from its bearer.<sup>88</sup> Treating labour purely as a commodity is problematic. This means that the result of laissez-faire policies is social dysfunction.<sup>89</sup> This would require a radically different approach to labour, which itself can serve as an obstacle.

Can labour law improve the standards of worker protection within a capitalist market economy? Some research shows that up to 80% of the employers' cost of providing benefits is borne by the employee.<sup>90</sup> In this context, how beneficial will regulation really be? Any regulation

that is proposed should not improve the burden on labour. There is also some argument that platforms may be willing to extend benefits to their workers, but they are deterred from doing so because of a fear of the employee status.<sup>91</sup> Is it necessary to work around this?

The contradictory positions of labour and capital in a market economy seems to be a zero sum game where one parties interests can only be advanced at the cost of the other.<sup>92</sup> Marxist thought emphasises that in a market economy, labour standards will come at the cost of efficiency and the power of employers to advance profit<sup>93</sup> and in discussions on job security versus flexibility and profitability, economic goals are ranked higher than social goals.<sup>94</sup>

There are a number of barriers to regulation, stemming primarily from the ideological stance on labour law. Whether and how they can be resolved is explored in the next section.

## POSSIBLE SOLUTIONS AND A WAY FORWARD

This essay concludes that, short of a radical change of our economic system, the only way to improve the position of labour is strong, detailed and all-encompassing regulation together with robust enforcement. Framing such regulation in the context of capitalism will lie in incentivising higher labour standards, such as by showing that secure workers are more productive.

“Minimum wages globally, basic income security through a universal Social Protection Floor and policies to combat

the erosion of the employment relationship are indispensable to limit precarious employment, indecent working and living conditions.”<sup>95</sup> The ILO recommends that contracts not deprive workers of protective rights. Without workplace empowerment, legal regulations do not materialize.<sup>96</sup> Further, precarious work needs to be curbed for there to be any form of equality.<sup>97</sup> The only way to reduce precariousness is to de-commodify labour.<sup>98</sup>

A dilemma the informal workers face is being inside the punitive arm of the law but outside the protective arm of the law.<sup>99</sup> One of the first forms of reform is recognition of the informal sector. These eliminates the situation of being forced to operate illegally, and also increases the access to benefits.<sup>100</sup>

The only redeeming inclusions in capitalist labour law, the welfare state and collective bargaining, came about because of the radical organization of the poor and the fear of the rich that they might implement radical leftist policies.<sup>101</sup> This organization of the poor is necessary for any bargaining. In the fight against this exploitative economic model, it is important to recognize that unionizing of workers is possibly the most important short-term measure.

The pluralist perspective postulates that, far from having contradictory positions, workers and employers have a shared interest in productive workers, profitable employers and a strong economy.<sup>102</sup> Capital needs stability and predictability, and this can possible coincide with labours need for security.<sup>103</sup> Labour issues must be integrated into economic planning. This could be a way forward.

Regulation is needed that mandates that deviations from standard contract employment should be short term and extraordinary, and there should be a limited set of conditions under which precarious workers can be hired. Short term contracts should also be converted into a permanent contract after the expiry of a certain term of employment. Employers cannot exceed a certain proportion of worker that can work precariously. Another strong way to disincentivize precariousness is requiring that precarious workers be paid a higher wage than regular workers.<sup>104</sup>

New labour movements can also be community rather than workplace based,<sup>105</sup> which would mean that previously excluded groups can now be represented. This is tricky in the context of how bargaining would work, and with whom they would bargain.

The emerging gig economy does not fit into worker or independent contractor categories, and so requires a new nomenclature.<sup>106</sup> Some countries work on a rebuttable presumption of employee status. Countries such as Canada and Germany have the option of a “dependent worker”, one who is independent, but with limited choice and control.<sup>107</sup> This could be a regulatory solution to ensuring worker protection while preserving market flexibility. In Denmark, the model is “flexicurity”. Employers can hire and fire at will, but there is a strong labour market and social security net that helps in finding jobs, compensation and in training and practical education.<sup>108</sup>

The common law test to determine if an individual is a worker or an independent contractor is to examine which party

controls the employment process.<sup>109</sup> In the UK, in *Aslam, Farrar v. Uber*<sup>110</sup> the court found Uber drivers to be employees<sup>111</sup> as they have no bargaining power and no control over the labour process.<sup>112</sup> In *Autoclenz Ltd v. Belcher*<sup>113</sup> the court found valets to be employed rather than self employed for the same reasons.

There is a lot of change happening worldwide. In India, drivers working for platforms such as Uber are collectively striking for better conditions of work.<sup>114</sup> The European Parliament recently approved minimum rights for gig economy workers<sup>115</sup> including the right to be informed of working conditions, duration and rate of pay on the first day. Workers are to be compensated if assignments are cancelled at the last minute, and employers can no longer exploit flexibility in the labour market.

The lens of labour law should be social protection and not the employment contract.<sup>116</sup> This is important because rights flowing from labour law enjoy greater legitimacy than human or other socio-political rights because of the economic component of labour law.<sup>117</sup>

This essay has established that precarious work is a harmful economic trend, and is closely linked to and is a tailored product of capitalist neoliberal ideology. While regulation should be enacted within this system to incentivize higher labour standards, along with improving social security nets to combine the economic need for flexibility with the social need for security, there is no substitute for organizing workers and collective bargaining. Governments in capitalist economies are no more than the tool of the capitalist class, and cannot be relied

on to protect the vulnerable from the never ending drive for profits.

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*"[P]recarious work is a **harmful economic trend**, and is closely linked to and is a tailored product of capitalist neoliberal ideology. While regulation should be enacted within this system to incentivize higher labour standards, along with improving social security nets to combine the economic need for flexibility with the social need for security, there is no substitute for organizing workers and collective bargaining."*