

Work, Organization, and Employment
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Zero Hours and On-call Work in Anglo-Saxon Countries

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Work, Organization, and Employment

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Chapter 1

Introduction to Zero Hours and On-call Work in Anglo-Saxon Countries



Michelle O’Sullivan

Abstract This chapter provides the introductory backdrop to the study of employment arrangements variously termed zero hours and on-call work. The chapter focuses on two essential features of such work—job instability and working time uncertainty. Given the centrality of working time to the analysis of on-call work, the chapter provides an outline of the evolution of working time in the employment relationship from its increasing formalisation during industrialisation to contemporary organisation’s use of working time in fragmented ways and without the regulations associated with standard working time arrangements. The chapter assesses definitions of zero hours and on-call work by international bodies. As regulation is a central focus in the study of work, the chapter examines the potential for regulating working time by social actors and the state, particularly emphasising the tensions that arise as states try to fulfil multiple and sometimes competing functions. This is followed by a comparative overview of the characteristics of the six Anglo-Saxon countries studied in the book in regards to their production, industrial relations and welfare systems.

Keywords Job stability · Working time · Zero hours · On-call · Social actors · State functions · Anglo-Saxon

1.1 Introduction

This book focuses on zero hours and on-call work, which represents the zenith of labour flexibility for organisations. There are two overarching themes to the book. The first theme concerns the extent to which zero hours and on-call work is a phenomenon similarly experienced across six Anglo-Saxon countries often categorised as having substantial similarities in production, welfare and employment regimes. The second theme concerns the extent to which employment regulation has developed in the six

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countries, particularly by the state, specifically in response to zero hours work and working time uncertainty. If the state does take regulatory action, the critical issue is the extent to which such responses positively alter the nature of work for workers or merely involve 'tinkering at the edges', resulting in overall little disruption to the state function of maintaining competitiveness through minimum regulation. Of course, the outcomes of state policies are not always predictable as social actors interpret and contest regulations in different ways but state regulations do critically contour the employment relationship, workers' day-to-day experiences and the nature of contestation between social actors. We conceive of regulation as a specific set of rules (Baldwin et al. 2012) but which are not necessarily the result of objective, evidence based, neutral decision-making but are also reflective of a state's balancing of tensions between its functions in a democratic society. Moving to external sources of regulation, initiatives at the international level can influence state responses or can be used by social actors, particularly unions, as a channel through which inadequate state regulation can be challenged. The book examines the potential for hard and soft regulation of zero hours work and working time uncertainty at the EU level and more globally by the ILO. Thus, the book has a comparative institutionalist focus which recognises the importance of different societal contexts and power resources of the major social actors (Grimshaw et al. 2017). Zero hours work and working time uncertainty have become especially topical in light of the growth of platform companies and the book examines the precarious and fragmented activities of workers and how platform companies structure power relations with workers. Finally, moving away from a focus on regulation is a consideration of zero hours and on-call work from an ethical perspective, particularly how such work contradicts the values espoused in the growing number of corporate social responsibility policies.

This chapter provides the setting for the subsequent discussions of zero hours work by focusing on two essential features of such work—job instability and working time uncertainty, meaning a lack of regularity for workers, and control by workers, in the number or scheduling of hours. It reviews the evolution of working time to the current concerns over fragmented working time, operationalised through zero hours type hiring practices. This is followed by a discussion on the defining characteristics of zero hours and on-call work and an examination of the groups of workers in the labour market more likely to be exposed to poor-quality jobs. The chapter then turns towards issues relevant to the second theme on the regulation of work, and in particular, the tensions that can emerge as the state seeks to fulfil its functions of accumulation and legitimation. Given the interest in the book on Anglo-Saxon countries, the chapter then assesses the similarities and differences between the countries in production, welfare and employment regimes.

1.2 Job Stability and Working Time Uncertainty

Work is a dominant and critical aspect of people's lives, contributing to their survival and self-development, as well as being essential to the functioning of economies

and societies (Grint 2005; Marx 1887; Thomas 1999). There are concerns though that work is failing to meet these goals given the proliferation of poor-quality jobs characterised by job insecurity and working time uncertainty. While job insecurity is a perennial reality of work (Thomas 1999), it is argued that it is becoming a more prominent feature of developed labour markets (Kalleberg 2018). An absence of job security is a central feature of jobs described as precarious which are characterised by ‘uncertainty, low income, and limited social benefits and statutory entitlements’ (Vosko 2010, 2). Standing (2011) links employment insecurity with the wider development of a *precariat* with class characteristics. This precariat consists of people with a dearth of multiple forms of labour-based security, who lack ‘a secure work-based identity’, have minimal trust in capital or the state and are ‘without social contract relationships of the proletariat whereby labour market securities were provided in exchange for subordination and loyalty’ (Standing 2011, 8–11). While the identification of a precariat class has been disputed (Alberti et al. 2018), there is significant concern about employment security and an increasing knowledge base on the negative outcomes of insecurity and precarious jobs for workers and societies. Poor-quality and precarious jobs have adverse consequences for the financial and psychological well-being of workers and their life-course decisions as well as worker productivity, economic performance, inequality and state finances (Eurofound 2013; Clark 2015).

Organisational strategies which seek to maximise revenue and minimise costs through, for example, zero hours and on-call work have been enabled, it is argued, by a shift in recent decades from economic models based on state intervention in the labour market and increasing protections for the working class to ones based on competitiveness and labour market flexibility (Standing 2011). The transference of labour market risk onto workers has become a common theme of studies on the ‘flexible firm’ (Atkinson 1984), the ‘fissured workplace’ (Weil 2014), ‘liquid modernity’ (Bauman 2000), and precarious and ‘bad’ jobs (Warhurst et al. 2012; Kalleberg 2011, 2018). For Bauman (2000, 147–149), labour market flexibility in contemporary societies denotes a ‘working life ... saturated with uncertainty’ in which ‘the place of employment feels like a camping site which one visits for just a few days ...’. This uncertainty extends to working time. The regulation of working time was a critical element in the evolution of the standard employment relationship, but the increasing diversification and fragmentation of working time have been used by some employers to detach from such rules and increasingly transfer labour market risk onto workers (Campbell 2017). Working time is a key aspect of the frontier of control in the employment relationship.

1.3 Changing Perspectives on Working Time

Industrialisation and the movement of workers into factories established the importance of working time by creating a distinction between work and private life and by employers using working time as tool of worker discipline (Lee and McCann 2006; Thompson 1967). Industrial society and production were built on blocks of

time, fixed workplaces and homes (Standing 2011), and a recognition of the division of time devoted to production and leisure (Lee and McCann 2006). The importance of time in the capitalist system was reflected in Marx's (1887) observation that 'the working day is determinable, but is, per se, indeterminate' and he was pessimistic about workers burden as capitalism 'only lives by sucking living labour, and lives the more, the more labour it sucks'. In this context, the concern was over capitalism's efforts to increase the hours of work and the length of the working day was an early contested part of the employment relationship; a cause which also helped spur the development of trade unions (Hermann 2014). Statutory regulations were introduced to place limits on the working day following workers collective actions with support from social reformers and progressive employers (Hermann 2014). Sidney Webb predicted the eight-hour day while John Maynard Keynes famously predicted that the age of leisure. These predictions were reflective of a burgeoning view in early twentieth century that a reduction of working hours would accompany economic progress (Gershuny and Fisher 2014). A statutory eight-hour day was a widespread demand of unions in Europe and the US in the late 19th century, but it was not realised in many countries until after the First World War and was written into an ILO convention on working time (Hermann 2014). Time became a central feature of the development of the standard employment relationship (SER) in terms of establishing the pay-effort relationship and ensuring a limit to employers' extent of control (Rubery et al. 2005; Hermann 2014). Standard days and hours of work evolved so that workers would need additional pay for working during non-standard hours (Rubery et al. 2005).

There was a long-term pattern of declining annual working hours in industrialised countries during the twentieth century (Maddison 2001). However, the decline in working hours 'has slowed down considerably in almost all OECD countries and has even come to a halt in some countries' (Constant and Otterbach 2011, 2). Working hours have slowed noticeably since the 1970s in the US, UK and Canada (Boulin et al. 2006). The fall in working time in many countries was due to a reduction in full-time hours and a growth in part-time employment (Boulin et al. 2006). The growth in part-time employment but also of long working hours such as in US and Australia led to a dispersion of working time (Boulin et al. 2006; Anxo and O'Reilly 2000; Campbell 2004).

In the 1980s, Atkinson (1984) argued that as basic working time was declining, organisations sought more effective ways of deploying it. His flexible firm was based on a conception of an emerging employment model that allows firms to attain functional, numerical and financial flexibility in staffing strategies. This resulted in employment practices which involve maintaining a core group of functionally flexible workers with firm-specific skills and on stable, full-time contracts with development opportunities. This group would be protected by the establishment of periphery groups to provide numerical flexibility and sourced from the external market. The first peripheral group could have full-time employment but lower job security and little career opportunities, while the second peripheral group would work under part-time and temporary arrangements, providing maximum flexibility and minimal costs for the firm (Atkinson 1984). A 1996 study estimated that between one-third and one

half of US establishments had adopted some form of core-periphery labour utilisation strategy (Kalleberg 2003). While the model acknowledges the insecurity of the secondary labour force, it has been criticised for presenting the expansion of the secondary sector as inevitable and with placing responsibility on workers to deal with the consequences (Pollert 1988). An important impact of the model has been the widespread usage and normalisation of its terminology (Pollert 1988). The model paid insufficient attention to activities in service firms where non-standard workers can account for the majority of staff (Gamble and Huang 2009; Walsh 1990). In service firms, it may not be the case that only core workers are indispensable as on-demand, part-time and temporary workers are used by service organisations at peak business times (Walsh 1990). Rather than strict dichotomies between core and peripheral workers' terms and conditions, the core can include workers with low security and few development opportunities (Kalleberg 2003).

The core-periphery model illustrated the way in which organisations were changing employment relationships to maximise efficiencies though lacked consideration on time-based flexibility, which has often been subsumed under numerical flexibility (Blyton 1992). Standing (2011, 116) argues that in the global market, 'traditions of time are nuisances, rigidities, barriers to trading and to the totem of the age, competitiveness and contrary to the dictate of flexibility'. Studies increasingly show how firms are using time as a key source of flexibility. Firms are increasingly fragmenting working time through increased monitoring of time, a reduction of inactive periods in jobs and an intensification and 'densification' of working time (Boulin et al. 2006; Walsh 1990). For some firms, labour is 'to a considerable extent dispensable at least for periods of lower than average sales' (Walsh 1990, 519). By fragmenting time, employers minimise or eliminate the costs previously determined by time under the SER, such as overtime and premium payments and other benefits. Temporal flexibility can often be employed in conjunction with numerical flexibility. Zero hours or on-call work allows firms to both increase the available pool number of people to work at any time and in short blocks without the traditional employer obligations associated with an employment relationship such as a commitment to future work. Zero hours work allows firms to realise the full efficiency potential of fragmented working time.

As firms fragment working time so that work can be scheduled at any time in the week, it draws attention to the fact that the regularity, scheduling and control of hours are as important issues of contestation as the number of hours of work. Recent studies point to the impact of these elements of working time on job quality, work-life balance and worker well-being. Research has found that 'fixed and regular working hours, high predictability of working time, the possibility to take time off and/or job autonomy all increase the likelihood of achieving a balanced work-life situation' (Eurofound 2017, 1). High schedule irregularity can lead to higher work-family conflict (EPI 2015). Similarly, individuals who are requested to work at short notice on a frequent basis are more likely to report a poorer work-life balance (Eurofound 2017). The extent to which employers or workers have discretion or control over the number and scheduling of hours is referred to as employer-led flexibility and worker-led flexibility respectively (Wood 2016). Workers' level of control over the number

and scheduling of hours is critical to their health, well-being, work-life balance (Fagan et al. 2012), perceived stress levels (Hall and Savery 1986) and tolerance of work schedules (Barton et al. 1993). Many workers do not have control of working hours. Within the EU, 64% of employees have their working hours set by their employer with no possibility for changes (Eurofound 2017). In the US, over one-fourth of salaried workers and two-fifths of hourly workers report having no control over starting and quitting times (Golden et al. 2011). The flexible scheduling of working time augments organisations' control of workers. For example, managers can use flexible scheduling as a subtle and ambiguous mechanism of control and workers can feel indebted to managers who facilitate their scheduling requests (Wood 2018). Employers can 'flexibly schedule' workers through zero hours or on-call contracts.

1.4 What Is On-call and Zero Hours Work?

On-call and zero hours work appears to be antithetical to the SER. While it has been argued that the SER was not 'the modal type of work arrangement in any society at any time' (Kalleberg 2018, 14), its development in industrial societies in the twentieth century was an important result of increasingly influential organised labour and interventionist welfare regimes. The object of the SER 'is not only today but also tomorrow' with employees providing labour exclusively to one organisation and employers having obligations in regard to working time duration, scheduling and payment rules (Bosch 2006, 44). SERs are characterised by open-ended contracts with full-time working time schedules. The SER is viewed as socially protected and its basic conditions are regulated to a minimum level by collective agreement, employment law or social security, and therefore it 'offers a degree of protection to workers against the power of the employer' (Deakin 2013, 4). The SER has contributed to de-commodifying labour, reducing social inequality and enhancing economic efficiency (Bosch 2006). While SERs are not immune to precariousness (Grimshaw et al. 2016), jobs that deviate strongly from the SER have a higher the risk of precariousness and are associated with lower worker job satisfaction and well-being (Broughton et al. 2016; Eurofound 2013). As Kalleberg (2018) notes, precarious work reflects changing employment relations with a shift in power relations from labour to capital and also a loss of social protections associated with the SER.

There are no universally used definitions of on-call work, also labelled zero hours work, casual work, intermittent work and marginal part-time employment. Some countries have definitions in employment legislation of *contracts* labelled as on-call or zero hours while other legislative systems make no reference to them. With its chameleonic tendencies, it has been argued that on-call or zero hours work do not describe one particular type of employment but are 'no more than a convenient shorthand for masking the explosive growth of precarious work for a highly fragmented workforce' (Adams et al. 2015, 4). Nevertheless, precarious work is a wide concept encompassing an array of forms of employment. This book conceives of

zero hours or on-call work as having a particular set of characteristics which distinguish it from other forms of atypical employment and which contrast starkly with the SER in terms of obligations of employers to workers and in terms of the lived experience of workers. Definitions of on-call/zero hours work from international bodies show some differences but also essential features (Table 1.1). Recent ILO (2016) and OECD (2016) definitions similarly refer to the absence of obligation on employers to provide any number of hours of work while the latter also notes a corresponding absence of obligation on workers to work. An earlier ILO (2004) definition and Eurofound (2015) treat zero hours contracts as a sub-category of on-call work. They define on-call work in terms of employers providing individuals with work as and when they need them, but this might take the form of low hours or ‘min-max’ contracts with a stipulated minimum and maximum number of hours whereas zero hours contracts have no guaranteed hours. These definitions of zero hours contracts align with academic definitions, such as Deakin and Morris’s (2012, 167), that they are cases ‘where the employer unequivocally refuses to commit itself in advance to make any given quantum of work available’. While Eurofound states that on-call work involves a continuous relationship between employers and employees, the ILO (2004) definition specifies that on-call workers are casual, which usually infers to an intermittent relationship. There is no suggestion of continuity of employment in relation to zero hours contracts. The definitions listed below tend to focus on the number of working hours and do not explicitly, though it is implied, focus on other important issues such as the scheduling, predictability and control of hours. These issues are crucial to workers’ everyday experiences and, for them, may be key benchmarks by which they consider a job to be ‘good’ or ‘bad’. Finally, definitions vary by terminology in referring to individuals or workers or employees or they use no term to describe labour. Such terminology has become central in legal disputes between workers and organisations in establishing employment rights as they are afforded in many countries to an established category of ‘employee’ and not necessarily to other categories such as ‘workers’.

In summary, zero hours or on-call work refers to forms of employment where an employer either guarantees no hours or few hours of work, and all or much of working hours are offered at an employer’s discretion. Thus,

- (i) workers only work when specifically requested by employers
- (ii) workers may over a particular time period work no hours, few hours or full-time hours
- (iii) workers have a lack of guaranteed specific predictable hours over the day and week
- (iv) workers can have little control over the number and scheduling of hours
- (v) workers have insecurity of earnings.

On-call and zero hours work then are forms of employment which intersect two key issues of contestation in the employment relationship—job security and working time structures. Given the varying terminology and employment arrangements which describe on-call work across countries, the individual country studies in the book

Table 1.1 Definitions of zero hours and on-call work

Organisation	Definition
ILO (2016)	Very short hours or no predictable fixed hours, and the employer, thus, has no obligation to provide a specific number of hours of work
ILO (2004)	On-call work—Casual workers are individuals who are called into work only as and when they are needed. The activity of these workers is, therefore, closely dependent on the level of, and fluctuation in, the workload, and they can work for only a few days or for as long as several weeks in a row. The employment contracts of casual workers can stipulate their minimum and maximum hours of work and indicate the notice period that has to be respected for requiring that they work. In contrast, under 'zero hours' contracts, workers are not entitled to any minimum number of hours of work
Eurofound (2015)	On-call work involves a continuous employment relationship maintained between an employer and an employee, but the employer does not continuously provide work for the employee. Rather, the employer has the option of calling the employee in as and when needed. There are employment contracts that indicate the minimum and maximum number of working hours, as well as so-called 'zero hours contract' that specify no minimum number of working hours, and the employer is not obliged to ever call in the worker
OECD (2016)	Zero hours contract—under which the employer has no obligation to provide a minimum number of hours and the worker has no obligation to work a minimum number of hours

provide a picture of the extent to which zero hours and related forms of work are a phenomenon and review the evidence on the prevalence of such work.

1.5 Vulnerable Workers and Employer-Led Flexibility

Non-standard work generally is more likely to be a result of employer-led requirements than a deliberate choice on the part of employees (Fagan et al. 2012). Walsh (1990) found that service sector employers justified less favourable treatment of workers by the fact that part-time hours were less available in other industries and therefore employers considered such work as attractive. Working time configurations differ depending on the type of employment arrangement and occupational level. Non-standard employment is associated with variable and unpredictable hours (Wood 2016; Henly et al. 2006). Managerial and professional employees are more likely to have control of hours (Fagan et al. 2012) whereas low-level occupations are more likely to work under employer-led arrangements and less likely to have access to worker-led flexible arrangements (Lambert and Waxman 2005; Henly et al. 2006; Blyton 1992).

Thus, there are particular segments of the workforce which are more likely to be subjected to employer-led flexibility. Labour market segmentation (LMS) theory

has long pointed to the differential treatment of groups of workers by capitalists. Under LMS, the primary sector consists of workers with firm-specific skills who are incentivised by employers to reduce mobility through stable employment, high-pay and development opportunities, while the secondary sector consists of people with general skills whose stability is not required by employers and so they have low pay and few development opportunities (Doeringer and Piore 1971). Activities within each sector serve to reinforce their continuation, such as through capitalism's ability to increase labour supply by absorbing women and migrants into the labour market (Rubery 1978). Women and migrants constituted 'vulnerable' workers who lacked power resources and employers responded to, and exploited, their vulnerability by offering poor pay and conditions (Rubery 1978). Secondary sector jobs offered significant benefits to employers through a cheap, flexible workforce often with 'sufficient quality of output' (Walsh 1990). Segmentation and flexibility studies have been criticised for neglecting the 'importance of conventional attitudes to sex, status and hours of work in the division of labour and in payment structures' (Walsh 1990, 526). In this regard, Walsh's (1990, 527) study showed that organisations' employment decisions regarding non-standard workers were not the outcome of objective differences in skill or job content, but were based on 'pervasive assumptions about relative income needs, convenience and commitment, and their opportunities for employment elsewhere'. Capitalists helped shape inequalities and low wages such as through 'under-investment in productive structures leading to low-wage, low-skill vicious cycles' (Grimshaw et al. 2017, 3; Rubery 1978). Such employer strategies can be facilitated by poor regulation and can help reinforce regulatory gaps as vulnerable groups can lack labour market power to influence the regulation of work.

1.6 Social Actors and the Regulation of Work

The regulation of employment is a central theme of work and employment (Dunlop 1958; MacKenzie and Martinez Lucio 2014) for important reasons. Employment protections over issues such as working time can help reduce workers' exposure to precarious work (Grimshaw et al. 2016). There is a significant and necessary role for worker agency to seek enhanced rights when protections are absent or to enforce existing protections. However, a domino effect can follow from organisations' segmentation of workers so that they have fewer mechanisms by which they can influence the employment relationship. Organisations' use of flexible scheduling and insecure employment can impede the development of worker solidarity and consequently workers' associational power, undermining workers' resistance to poor conditions (Doellgast et al. 2018; Grimshaw et al. 2017). Workers may also have a scarcity of structural power because they lack of key skills and centrality of location in the production process (Doellgast et al. 2018). With limited bargaining power, workers may have little freedom to make genuine choices over jobs and working hours and may be 'susceptible to being compelled to forgo their employment rights' (Lee and McCann 2006, 86). Of course employment regulations in secondary markets

can vary significantly across countries. In coordinated market economies, unions can use their strength and collective bargaining extension mechanisms to secure improvements for workers with less bargaining power (Grimshaw et al. 2016). In Anglo-Saxon countries, where such mechanisms are much less available, unions may have to place more efforts in organising or alternative strategies for representing precarious workers (Nissen 2004; Campbell 2010; Doellgast et al. 2018). While there are examples of success, and the impact can be difficult to measure, it has been argued that the 'transformative value of organising ... has resulted in a quite limited set of outcomes' (Martinez Lucio et al. 2017, 38). The comparative weaknesses of unions in Anglo-Saxon countries, and the shift in power dynamics increasingly in favour of employers (Dundon et al. 2017; Doellgast et al. 2018), means fewer checks on management control of the employment relationship (Marchington and Dundon 2017). This leaves workers further exposed to a range of 'protective gaps' in relation to employment protection, social protection, representation and enforcement of rights (Grimshaw et al. 2016).

However employment regulation is shaped by 'a multiplicity of regulatory sites, spaces and actors' (MacKenzie and Martinez Lucio 2005) and the power of capital and labour is mediated by the state. Studies on work and employment in English-speaking countries have been criticised for a lack of attention on the role of the state, though there has been some renewed attentiveness in recent years (Martinez Lucio and MacKenzie 2017; O'Sullivan et al. 2017). The state intervenes in the labour market to varying degrees through employment law, support for collective bargaining, welfare systems and as an employer itself (Kauppinen 1997; Meardi et al. 2016). State policies in market societies are faced with dilemmas about how to devise mechanisms and processes to ensure the needs of labour and capital are to a degree mutually compatible (Offe 1984). A democratic state in a capitalist market society has two functions: accumulation, with the goal of encouraging economic performance and competitiveness, and legitimation, which involves 'maintaining popular consent by pursuing social equity and fostering citizenship and voice at work' (Hyman 2008, 262). Tensions can arise between the state imperative for accumulation and the need for legitimacy (Hyman 2008). In the labour market, accumulation is perceived from a liberal market perspective to be facilitated by the absence of regulations that inhibit the flexible use of labour (Hyman 2008). Legitimation by contrast is enhanced by the presence in the labour market of 'market-correcting interventions' that protect workers (Hyman 2008, 262). An objective of the state is to provide for an 'orderly operation of the employment relationship' (Treuren 2000: 81). In doing so, some argue that the state secures the legitimacy of the capitalist system or provides 'the de-commodification of labour necessary to maintain economic and political efficiency' (Treuren 2000, 82). State policies in the labour market can lead to contradictions whereby the preconditions for market efficiency are threatened by policies that constrain flexibility, productivity and profitability (Offe 1984).

State actions and industrial relations' institutions have significant effects on employment. Research has found that 'less inclusive welfare state protections, weak labour market protections, and low bargaining coverage and coordination are associated with high or expanding precarity' (Doellgast et al. 2018, 18). There is increasing

pressure on states to support greater labour market flexibility (Howell 2015; Kalleberg 2018). Kalleberg (2018, 41) asserts that countries with different production, industrial relations and welfare state systems have ‘liberalised their social protection and labour market institutions in response to economic, social and political pressures for greater flexibility’. There is evidence in the EU that different institutional regimes have reduced employment protections, social protections and government spending ‘in part as a response to the heightened pressure for supply-side reform created by a tightening of fiscal discipline in the EU and the further subordination of social policy to economic policy’ (Hastings and Heyes 2018, 474). Some argue there has been a ‘resurgence of market fundamentalism’ in some countries, whereby the market is considered the most appropriate sphere for resolving preferences and requirements for working time (Lee and McCann 2006). This is grounded in the neoclassical economic view that individuals maximise utility subject to a budget constraint and that under perfectly competitive markets, workers actual and preferred hours worked should be the same (Constant and Otterbach 2011). Employment law is an area of state responsibility which has been under significant pressure. While many countries increased employment laws through the twentieth century, such laws have been criticised for protecting insiders at the expense of outsiders based on economic theories that view regulation as leading to barriers in the labour market (Deakin 2013; Vosko 2010). This is evidenced by European Commission arguments that labour market segmentation could be addressed by reducing protections of permanent contracts and increasing protections for people on the margins of the jobs market, labelled a ‘flexibility at the margin’ approach (De Stefano 2014). A significant problem for workers in countries with less embedded participatory rights is that ‘the state can withdraw support for collective bargaining’ and ‘protective labour market institutions can be easily dismantled’ (Grimshaw et al. 2017).

The pressures on, and by, states to deregulate employment protections and welfare regimes result not only in formal policy changes but can also have consequences for how nation states influence the way in which workers think about work and internalise governed behaviours. It has been argued that nation states engage in strategies and discourses which seek to reinforce the view that ‘actors can only optimise their capital by embracing free market (enterprise) values of flexibility, risk, creativity, and independence’ (Vallas and King 2012, 182). Such a discourse supports the pursuit of neoliberal economic and political goals of privatisation, the liberalisation of markets and more competition (Barnett 2005). In this line of argument drawn from the work of Foucault, states advance ‘a rhetoric that celebrates the sovereignty of the enterprising worker’ and workers then ‘reproduce subjectivities that take the role of the employer and of the market generally towards themselves’ (Vallas and King 2012, 186). Such discursive practices are visible in relation to zero hours and on-call work. Some politicians present on-call or zero hours work as a mutual gains solution for all stakeholders in fast-moving, consumer-oriented economies. As Rubery et al. (2016, 235) note ‘even zero hours contracts have been categorised by some politicians as a work-life balance policy’. For workers, this means that neoliberal subjectivities become normalised and discourses projecting the freedom and power of the enterprising individual inhibit ‘the capacity of workers to resist their subordi-

nation at work' (Vallas and King 2012, 184). The normalisation of neoliberal subjectivities suggests a negative outlook for the resistance of insecure and low-wage work in Anglo-Saxon countries. However this pessimism should be counterbalanced by the fact that state actions and policies can be uncertain and contingent on the political orientation of the government in power, conflicts within political parties, the influence of interest groups and societal actors as well as the influence of supra-national bodies (Hyman 2008; Bosch and Weinkopf 2017; Offe 1984). In addition, policies in different spheres of state responsibility such as welfare and employment can have complex and sometimes unintended interactions with each other. These factors mean that the outcomes of state policies can be uncertain and there is no guarantee that Anglo-Saxon countries will always pursue labour market policies which foster accumulation over legitimation (Hall and Soskice 2001). Even where states pursue accumulation through, what some term deregulation, and others refer to as 'a transfer of regulation to another site' (MacKenzie and Martinez Lucio 2005, 501), this can create new risks leading to greater demands for state social support (Rubery 2011).

1.7 Anglo-Saxon Countries in Context

While comparative frameworks are inevitably subject to weaknesses, and have different starting points, they point to cohesion between Anglo-Saxon countries but also differentiation. The varieties of capitalism (VoC) framework identifies various production regimes and is underpinned by a view that 'sector-specific competitive advantages of companies and countries heavily depend on country-specific institutional conditions' (Schneider and Paunescu 2012, 731). The focus of production regime theories like VoC is the role of employers in shaping institutional structures, especially in regard to systems of skill formation (Gallie 2007). Under Hall and Soskice's (2001, 19) VoC framework, the USA, Canada, Ireland, UK, Australia and New Zealand are classified as liberal market economies (LMEs) which 'rely on markets to coordinate endeavours in both financial and industrial relations systems'. LMEs are viewed as having 'high levels of precarity due to employer's reliance on flexible labour markets, short-term capital investment and market-based skill provision' (Doellgast et al. 2018, 3). LMEs contrast with coordinated market economies (CMEs) which have high levels of non-market coordination in financial and industrial relations systems (Hall and Soskice 2001). It has been argued that LMEs have a similar 'institutional bias towards market-driven solutions to investment, growth and pay determination' (Hardiman et al. 2008, 602) in contrast to CMEs, where the state seeks to protect the production system's non-market coordinating institutions (Schmidt 2007). A test of the VoC framework found that the USA, UK and Canada could be categorised as exemplar LMEs while Ireland, New Zealand and Australia were 'LME-like' countries (Schneider and Paunescu 2012). The latter group 'are not as extreme in their values but show the same profile as pure LMEs; they are not fully coherent configurations' (Schneider and Paunescu 2012: 739).

While the VoC framework centred on production regimes, others have paid more attention to the power of social actors. Visser's (2009, 48) model of industrial relations arrangements in the EU focused on the role of unions and employer organisations and the relationships between them and the state. His framework categorised the UK, and for the most part Ireland, in a liberal pluralist 'west' cluster in which state involvement in industrial relations is low and the social partners' involvement in public policy is limited (Visser 2009). This has similarities with Gallie's (2007) framework of employment regimes which identified the UK as a typical market regime in which unions are excluded from decision-making and there is minimal employment regulation. While trade union density is lower in Anglo-Saxon countries in comparison to northern and continental European countries, there is variation within the Anglo-Saxon group. Ireland, the UK and Canada have density rates of over 20% with the remaining countries under 20%; the US being the lowest at just above 10% (OCED statbank). Union density though has been in decline in all Anglo-Saxon countries, particularly in Ireland, New Zealand and Australia since the 1980s (OECD 2016). All the countries have a significant proportion of their union density accounted for by public sector workers, especially Canada, New Zealand and UK (OECD 2016). Only Australia is above the OECD average for the proportion of union density accounted by private sector workers (OECD 2016). Unsurprisingly, the Anglo-Saxon countries have comparatively low collective bargaining coverage (Schneider and Paunescu 2012) and there have been steep decreases in coverage in Australia, New Zealand and the UK since the 1980s, with some recovery in Australia since 2009 (OECD 2016). The bargaining level is inextricably linked to bargaining coverage since coverage 'is high and stable only in countries where multiemployer agreements (mainly sectoral or national) are negotiated' (OECD 2016, 137). In Anglo-Saxon countries, decentralised bargaining prevails and private sector collective agreements are predominantly undertaken at the firm level, especially in the USA, Australia and New Zealand while there is greater evidence of agreements at higher levels in the UK and Ireland (OECD 2016). Data on employer organisation density is patchy but available figures suggest density is lower in Anglo-Saxon countries than CMEs (OECD 2016).

In addition to comparatively weak collective bargaining structures, it has been suggested, there is little substantive distinction between the SER and some non-standard forms of employment in Anglo-Saxon countries (Bosch 2006; King and Rueda 2008). There are some differences though in the sources of employment regulation across the countries. Individual labour markets can be influenced by external regulation through for example ILO conventions and international framework agreements, but only Ireland and the UK have substantial supranational sources of regulation through their membership of the EU. Their labour markets have been shaped both positively and negatively in terms of the de-commodification of labour, by EU employment law directives, decisions of the European Court of Justice (ECJ), as well as by EU social, fiscal and monetary policies. EU directives and ECJ decisions on equality, fixed-term work, part-time work, agency work and working time, have legitimised non-standard forms of employment and offered some protections to such workers. In terms of working time, EU law stipulates rules on a maximum

weekly number of hours (though the UK opted out of such regulation) as well on rest breaks and annual leave. Importantly though, the EU working time directive does not provide that workers are entitled to a minimum number of working hours or contain rules on the predictability of hours. In the context of the UK leaving the EU, the Government has made no guarantees that EU working time regulations will be retained after Brexit (Dobbins 2017).

Comparative typologies have identified the role of social actors and institutional arrangements in regulating working time (Eurofound 2017; Berg et al. 2004). Eurofound (2016) identifies four regimes in its typology

1. pure mandated regimes where legislation is dominant in regulating working time and collective bargaining is rare;
2. adjusted mandated regimes where legislation is dominant but adjusted through collective bargaining;
3. negotiated regimes where collective bargaining at sectoral level and company level is dominant;
4. unilateral regimes where working time is unilaterally determined by employers (Eurofound 2016).

The UK is categorised as having a unilateral regime and Ireland as having an adjusted mandated regime (Eurofound 2017). Berg et al. (2004, 347) had previously identified the US as a unilateral regime where workers have 'a relatively low level of control, limited flexibility in working time, and an uneven distribution of control over working time across occupations'. Thus Anglo-Saxon working time regimes are reflective of the weaker role of unions in regulation and this is associated with weaker compliance with working time standards (Eurofound 2017; Berg et al. 2004).

Frameworks such as those above that have focused on production regimes or industrial regimes have been criticised for paying insufficient attention to the role of the state and politics, despite their importance to the well-being of workers and interaction with production and employment relations systems. Alternatively, studies on welfare state regimes provide significant insight by focusing on the role of the state in de-commodifying or insulating workers from the pressures of the labour market (O'Connor 1993). Esping-Anderson's (1990) seminal study of ideal types of welfare state identified liberal, conservative and social democratic welfare regimes. Under a liberal regime, 'the de-commodification potential of state benefits is assumed to be low and social stratification high' (Ferragina and Seeleib-Kaiser 2011: 584). Liberal welfare state regimes are based on the notion of market dominance and private provision and therefore have comparatively weak social protection systems, means-tested welfare programmes (Ferragina and Seeleib-Kaiser 2011; O'Connor 1993) and little integration of the social protection and production systems (Rhodes 2005). While the USA is the archetypal liberal state regime, the UK, Canada and Australia have medium to high internal consistency with the liberal regime, and Ireland and New Zealand have medium internal consistency with the liberal regime (Ferragina and Seeleib-Kaiser 2011).

Only a brief overview of Anglo-Saxon countries can be provided here but the general picture is that they are characterised by production systems reliant on flexible

labour markets, comparatively low unionisation and collective bargaining coverage levels, and a greater orientation towards a liberal welfare regimes. However, there are still important differences between the countries in regards to unionisation levels, the extent to which legislation and collective bargaining influences working time regulation and conformity with a 'pure' liberal welfare state regime. This suggests that even with similar production systems, there is room for differences in the nature of responses by social actors and the state on emerging labour market issues. These are important issues given that countries are experiencing similar forces such as increasingly competitive product and labour markets and, in regards to employment, greater diversification by organisations in how they organise labour and working time.

1.8 Structure of the Book

The next section of the book includes country studies of zero hours and on-call work in the UK (Abi Adams, Zoe Adams and Jeremias Prassl), the USA (Peter Fugiel and Susan Lambert), Canada (Gordon Cooke, Firat Sayin, James Chowhan, Sara Mann, and Isik Zeytinoglu), Australia (Iain Campbell, Fiona Macdonald, and Sara Charlesworth), New Zealand (Iain Campbell) and Ireland (Caroline Murphy, Jonathan Lavelle, Thomas Turner, Lorraine Ryan, Juliet McMahon, Michelle O'Sullivan, Mike O'Brien and Patrick Gunnigle). The chapters examine the extent to which zero hours and on-call work are recognised legally and statistically as a form of employment, the prevalence of such work, the exposure of zero hours and on-call workers to gaps in employment protection, and the nature of regulatory responses to such work. The chapters paint a picture of zero hours type work recognising the complexities and differentiation of terminology in national legal systems and in discourse. In some countries such as Ireland, the UK and New Zealand, zero hours work have become recognisable terms in public and policy discourse. While the terms are less familiar in Australia, the USA and Canada, working time uncertainty is a feature of their labour markets. The chapters sketch the extent to which zero hours type work can be described a mutually beneficial employment arrangement, or is an employment arrangement which intensifies inequalities in workplace power relations and maximises employers' capacity to control the labour process. In regards to the role of the state in the labour market, the classification of Anglo-Saxon countries as liberal economies with flexible labour markets suggests that the state prioritises the function of accumulation over legitimation. However, as noted, there can be limits to states pursuing an accumulation agenda and state policy is influenced by a range of factors including the influence of other social actors. It is not inevitable that Anglo-Saxon states will respond to public policy problems in the same way, and in a way which always prioritises accumulation. The chapters discuss the extent to which states impact zero hours type work through labour law and social protection systems as well as the nature of regulatory responses to such work at national and sub-national levels. The actions of individual states may be influenced by external regulation and two chapters consider the regulation, and potential regulation, of zero

hours work by supranational institutions. Agnieszka Piasna examines current proposals for regulation of unpredictable work at the EU level and Keith Ewing reviews the relevance of ILO conventions and recommendations to zero hours work.

The final two chapters examine two contemporary issues regarding zero hours and on-call work. Zero hours or on-call work is synonymous with the platform economy which has attracted much media interest particularly when 'gig' workers have resisted organisational practices antithetical to their interests. In this context, Debra Howcroft, Tony Dundon and Cristina Inversi examine insecure and fragmented work through the rise of the platform economy highlighting that the positive narratives about opportunities for workers ignore and disguise the precariousness of platform work and they note that the platform is a contested employment space. A further chapter raises questions about the significance and salience of zero hours and on-call work from an ethical perspective. Lorraine Ryan, Juliet McMahon and Thomas Turner argue that the prevalence of zero hours work reveals the tensions between the profit imperative of market economies and the states' obligation to citizens in affording them decent work. They consider whether the normalisation of zero hours type work undermines workers as citizens and legitimises the creation of denizens.

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