Paying the price for putting in the hours
New publications

Firefighters: feeling the heat
Fabienne Scandella, ETUI

The ETUI, in cooperation with the European Federation of Public Service Unions, has published a brochure on working conditions for fire-fighters in Europe. It addresses the ‘classic’ risks involved in this profession (risks from smoke, heat, etc.), as well as the impact of the organisation, structure and funding of fire services on firemen’s health and safety. Brochure author and ETUI researcher Fabienne Scandella finds it deplorable that the often tragic consequences of the accidents which can occur during fire-fighting operations seem to mean that the risks to which those intervening expose their health are neglected. Among other suggestions, therefore, she recommends regular medical monitoring of workers in the sector, including retired fire-fighting staff.

Women and occupational diseases. The case of Belgium
Laurent Vogel, ETUI

This report highlights the discriminatory impact on women of the system for the declaration and recognition of occupational diseases in Belgium. There is one striking statistic: women represent less than 10% of recognised cases of occupational diseases. “The list of diseases recognised corresponds more to male jobs in the traditional industries than to the reality of contemporary work”, according to Laurent Vogel, the report’s author. Very widespread health problems in jobs where women are strongly represented – cleaning, maintenance, storage, etc. – are generally ignored.

Benchmarking Working Europe 2012

Since 2001, the ETUC and ETUI have produced Benchmarking Working Europe for the European Social Summit to draw attention to the state of working Europe. The 2012 edition of Benchmarking Working Europe focuses on what we see as one of the root causes of the great recession, namely the issue of inequalities going far beyond income inequality. Growing inequalities lead to growing feelings of injustice and lack of social cohesion both within and across countries, and at the same time, to a loss of human potential in its broadest sense. In this respect, this publication raises serious concerns as to the current direction of social and labour rights in the European Union.

Orders and subscriptions
Géraldine Hofmann: ghofmann@etui.org
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Monsanto guilty of chemical poisoning in France

On 13 February, a French court declared U.S. biotech giant Monsanto guilty of chemical poisoning of a French farmer, a judgment that could lend weight to other health claims against pesticides. In the first such case heard in court in France, grain grower Paul Francois, 47, says he suffered neurological problems including memory loss, headaches and stammering after inhaling Monsanto’s Lasso weedkiller in 2004. He blames the agri-business giant for not providing adequate warnings on the product label. The ruling was given by a court in Lyon which ordered an expert opinion of Francois’s losses to establish the amount of damages.

Previous health claims from farmers have foundered because of the difficulty of establishing clear links between illnesses and exposure to pesticides. The agricultural branch of the French social security system says that since 1996, it has gathered farmers’ reports of sickness potentially related to pesticides, with about 200 alerts a year. But only about 47 cases have been recognised as due to pesticides in the past 10 years.

Source: Reuters

United Kingdom: Cameron wants to kill off the health and safety culture

In an opinion piece published on 5 January in the London Evening Standard, the British Prime Minister makes no secret of how bad he thinks the legislation on workers’ health and safety is. As he puts it: ”So one of the Coalition’s New Year resolutions is this: kill off the health and safety culture for good,” saying that it ”has become an albatross around the neck of British businesses”. The UK’s TUC obviously reacted to these comments: ”The truth is that there are two million people in the UK who have an illness or injury caused by their work – the vast majority of which could have been prevented had their employer taken the correct safety precautions,” argued its General Secretary Brendan Barber.

Source: TUC Risks

The European Parliament adopts a resolution on health and safety at work

On 15 December 2011, the European Parliament adopted a resolution on the mid-term review of the European strategy 2007-2012 on health and safety at work. The resolution is based on a report by Karima Delli (Greens group). The text stresses the importance of a European health and safety strategy and sends a clear signal to the European Commission: Parliament intends to maintain and develop this component of European social policies. With regard to the current strategy, the EP highlights certain weaknesses, in particular its non-systematic approach to long-term health effects such as work-related cancers.

The final text adopted by Parliament in plenary is nevertheless less ambitious than the initial text proposed by Karima Delli. It was watered down by a number of amendments tabled by two groups, the European People’s Party and the Alliance of Liberals and Democrats of Europe.

Karima Delli, rapporteur and member of the Committee on Employment and Social Affairs, commented after the vote: ”I welcome this vote by a large majority, a strong signal from the European Parliament. This crisis must absolutely not serve as a pretext to neglect health and safety at the workplace. Workers’ well-being must not be sacrificed on the altar of austerity.”

Source: ETUI
At its session on 1 December 2011, the Advisory Committee on Safety and Health at Work adopted an opinion on the future European Union strategy in this field. The opinion was drawn up on a tripartite basis by the committee, which is made up of representatives of governments, trade unions and employers from the 27 Member States.

The committee’s opinion stresses the importance of the European Union strategy in the area of health and safety. It highlights the need for an approach geared more towards the defence of health rather than accident prevention alone. It contains various proposals on the content of the future strategy. Employers’ representatives voted in favour of the tripartite opinion but insisted on adding an annex expressing their specific point of view. This annex aims, in substance, to reduce the Union’s ambitions in this area.

Source: ETUI

Danone and the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers’ Associations (IUF) signed an agreement on health, safety, working conditions and stress on 29 September covering Danone’s 101,000 employees in 90 countries.

The agreement is based on general principles such as taking into account the effects of organizational changes on employees, preserving balance between work and private life and involving workers in improving well-being and safety.

Where health at work is concerned, the agreement provides for systematic medical monitoring of all employees. It also lays down an obligation to return work accident and occupational disease victims to a similar job. It specifies that no-one should suffer discrimination on the grounds of their health. Danone companies must also ensure that the health of permanent employees, temporary staff and subcontractors is not put in danger (exposure to chemicals, toxic products, noise, heat, humidity and load carrying).

Sources: Liaisons sociales, Les Échos

Researchers from the Employment Studies Centre, which is attached to the French Research and Labour Ministries, analysed data from the European Working Conditions Surveys of 1995, 2000 and 2005 on the basis of four indicators of the quality of life at the workplace: physical strenuousness, technical constraints, commercial constraints and the complexity of work.

They came to the conclusion that between 1995 and 2005 the quality of life at the workplace deteriorated on average in the “old” Member States of the European Union (EU-15). Despite the decline in the number of industrial jobs, physical strenuousness (vibrations, noise, extreme temperatures, repetitive movements, etc.) increased, while the intensity of work expanded in its technical components (production-related, for example, machine speed) and its commercial components (connected to customers’ demands).

During the same period, the average degree of complexity of work declined, note the researchers.

Based on their data analysis, the French researchers drew up a ranking of the European countries in terms of quality of life at the workplace. Ireland, the United Kingdom and the Netherlands make up the top three. For the latter two countries, the low rate of employment in industry tends to explain the better statistical average. The situation of workers from the Mediterranean countries is much less enviable, in particular for the Portuguese and the Greeks, who are at the bottom of the ranking.
Industrialists sentenced to jail in Italy asbestos trial

A billionaire Swiss industrialist and a Belgian executive were sentenced to 16 years in jail on 13 February by an Italian court and ordered to pay millions of euros in damages for negligence that led to more than 2,000 asbestos-related deaths. The verdict in Turin could set a precedent for proceedings worldwide about safety in the workplace.

Stephan Schmidheiny, 64, former owner of the Swiss fibre cement firm Eternit, and Belgian shareholder and former executive Jean Louis Marie Ghislain de Cartier de Marchienne, 90, were found guilty of intentionally omitting to install measures to prevent health damage from asbestos at Eternit’s Italian plants, which closed in 1986. The defendants, who were tried in absentia, have denied wrongdoing and plan to appeal, their lawyers said.

More than 6,000 people – including former employees and residents of the four towns where the plants were located – were seeking damages in the case. “It’s a dream come true,” said prosecutor Raffaele Guariniello, who had sought a 20-year term for both defendants. He called the case “the biggest trial in the world and in history as far as safety at work is concerned”.

Source: Reuters

REACH is completely ineffective for nanomaterials

REACH, the European Union’s primary regulation on chemicals, is failing to identify or control nanomaterials, a new report released by the nonprofit Center for International Environmental Law (CIEL) claims. Specifically, it states that the EU’s primary regulation on chemicals is failing to identify or control nanomaterials.

According to the report’s author David Azoulay: “Three years ago, the Commission declared that REACH theoretically covered nanomaterials; but they continue to enter the EU market with little or no information on their potential risks, violating REACH’s ‘no data, no market’ principle. The problem is that the regulation contains legal gaps and shortcomings that render it completely ineffective for nanomaterials.”

The study focuses on four key gaps for nanomaterials in the registration phase of REACH, an essential step that requires chemical manufacturers and importers to provide key health and safety information:

— REACH does not define nanomaterials, and contains no nano-specific provisions;
— Most nanomaterials evade registration until 2018, yet they can still enter the EU market;
— REACH’s schedule for registration hinges on the number of tones of a chemical, essentially missing all nanomaterials, which are generally produced in far smaller quantities;
— REACH test guidelines fail to consider the special properties of nanomaterials.

The report also explores possible remedies to close these loopholes. Rather than re-opening REACH, it proposes developing a stand-alone regulation, carefully aligned with the chemical rules, but specifically tailored to nanomaterials.

Source: CIEL press release, www.neurope.eu

Netherlands: soaring precariousness on the labor market

The Dutch unemployment insurance is “shocked” by this unprecedented drop in fixed employment in the economic crisis. The UWV says there is no ready-made explanation. “It must have to do with lasting uncertainty on the labor market but we’re not sure” a spokesman confessed. Fixed-term contracts have soared, from 227,000 in 2010 up to 368,000 in 2011, while self-employed workers (businesses with a single employee, Zelfstandigen zonder personeel, ZZP) doubled, up to 750,000 in 2011.

With this phenomenon, self-employed workers, who are not covered by collective agreements, account for 4.8 percent of the active population. In construction, there were 4,000 fewer permanent contracts but about 12,000 vacancies filled by “flexwerk”ers (fixed-term contracts, temporary workers and ZZPs). Fighting against precarious labor is unions’ new hobbyhorse. Out of the 370,000 workers living below poverty line, 78 percent are precarious workers. The Federation of Netherlands Unions (FNV) started battling as early as January 2011 against the excessive use of temporary workers paid youth minimum wage in supermarkets, one of the effects of the crisis.

Source: Planet Labor
Editorial
Is the crisis really to blame?

Laurent Vogel
Director, Working Conditions, Health and Safety Department, ETUI

Up to September 2011, a new strategy on health and safety at work for 2013-2020 was firmly on the European Commission’s agenda. The only discussion was on what would be in it. The previous strategy was heavy on cutting work accidents and light on occupational health. The scope offered by the REACH Regulation for preventing chemical risks was not on the radar. No-one doubted that a general policy steer was needed to join up the different stakeholders’ actions.

In November 2011, the Commission adopted a 2012 work programme grandiloquently titled Delivering European renewal. A muddled paragraph refers to a Communication on health and safety at work that will build on the current strategy and its evaluation with the apparent aims of supporting the establishment of national strategies, improving implementation of the legal framework and supporting Member States’ efforts. Which roughly translates as: we’ve given up, but we’re not necessarily saying that the Member States should do.

Where the legal framework is concerned, “administrative simplification” is the current obsession. The only planned proposal in 2012 work programme is for the revision of the Carcinogens Directive. Again in November 2011, the European Commission announced plans to develop "two speed" legislation. It says that, "From January 2012 the Commission's preparation of all future legislative proposals will be based on the premise that in particular micro-entities should be excluded from the scope of the proposed legislation unless the proportionality of their being covered can be demonstrated". Ironically, the European employers’ organization for SMEs, UEAPME, is lukewarm about reversing the onus of proof. Probably with good reason: the Commission’s approach will pile the pressure on big customer firms to cut subcontracting costs with no tangible benefit to SME bosses.

2012 has been proclaimed the European Year of Active Ageing, but more than half of manual workers in Europe do not think they will be able to keep going to the age of 60 in their current working conditions. Deteriorating work conditions are not the fault of the crisis – the rot set in much earlier in the longer cycle of the capital/labour relation. But the crisis has made matters worse. Or, more accurately, the policies tied into the crisis are deepening the trend towards casualization. At the same time, the undermining of social protection makes it harder for individuals to turn their back on unbearable working conditions. Pressures to delay retirement will expose a growing number of aging workers to health-damaging conditions.

But the goal of levelling-up working conditions is more relevant now than ever. The results of the 2010 European working conditions survey show that inequalities are on the rise. The averages remain relatively stable, but the gap between the best and worst is widening. This goes for inequalities between manual and non-manual workers, higher- and lower-skilled workers, men and women, between contingent and permanent employment contracts, and also what may be vast gullets between countries.

So quality of work will be a key focus of political debates and labour action. It stands at the heart of any political discussion about democracy. Unless workers have real control over their work conditions, there can be no realistic break with a system of representation that relies on the inaction of constituents and political debates that smack of advertising campaigns for jaded consumers.

Deteriorating work conditions are not the fault of the crisis – the rot set in much earlier.
Barroso's stance on OSH is "A real slap in the face for European workers!"

The European Trade Union Confederation’s May 2011 Congress appointed a new political secretariat. Judith Kirton-Darling inherited the health and safety at work portfolio. Challenges abound as Europe’s top leaders openly come out against health and safety legislation. A united union movement, mobilising the most neglected categories of workers, and strengthening alliances with outside players top the British policy secretary's priority list.

Interview (January 2012) by Denis Grégoire  
Editor
We've demonstrated that we can create cross-party alliances."

European Commission President Barroso recently called for the 2013-2020 Community strategy on health and safety at the workplace to be postponed. What does the ETUC have to say about that?

Judith Kirton-Darling — We are extremely critical of the Commission. We are critical of the attempt to use the crisis as an opportunity to delay the new Community strategy which really should be being developed this year. We should be looking at the first proposals in the beginning of this year, to ensure that it could come into effect for 2013.

The idea that the crisis is an opportunity to delay European policy on health and safety is a real damning indictment of President Barroso, but also of the Commission's attitude towards the general social acquis. Because it's actually in the crisis that questions of health and safety become more important. The crisis has had an enormous impact on the health and safety of workers in Europe. If you look at workers who are facing threats to their jobs, increased stress at work related to their employment security, that's having a knock-on effect in terms of psycho-social health at work and all of the ramifications that that brings with it, leading to physical illness as well.

Before I was elected, I worked for the European Metalworkers' Federation. It was very clear that you had industries, for example the steel industry, where in the first part of the crisis a lot of temporary agency workers and fixed-term workers were sacked. And then, as production reached pre-crisis levels or nearly normal production levels, we didn't see the recruitment of people into the industry. So you had the same level of production but with a much smaller workforce, and the information that we were getting from plants was that people were on extremely tight rota schedules, that if one person was sick, then you might have somebody who might have to work double shift to replace them, that people have been woken up in the middle of the night to come and replace other people who worked that shift.

And for Barroso to say that health and safety isn't a priority at the moment is really a double slap in the face for working people in Europe. And it's because of that that the ETUC has reacted so strongly towards the Commission. We protested through every channel we had, through the Luxembourg Committee, through our participation in the Bilbao agency. And for Barroso to say that health and safety isn't a priority at the moment and is essential to maintain worker support for the European project. Alongside that, what we were seeing is that Barroso isn't doing that alone. We have seen that some employers and several governments are pushing for postponement.

This is particularly the UK government's case, where Prime Minister David Cameron said in January that he wanted to "kill off the health and safety culture for good" in the UK...

JKD — I think there is a full onslaught in the UK on health and safety rules. It's extremely ideological. It's not based on actual results from companies. For instance, the Löfstedt report was published in the UK in November, and is much more balanced than the government is presenting it. The way the government presents it suggests that it recommends the roll-back of health and safety rules, because they are a burden on business, a millstone around the neck of any good and viable business. The Löfstedt report does not say that, on the contrary, it concludes that the rules are broadly right and that union safety reps should be supported, but it does open the way for dangerous loopholes for the self-employed. In October 2011, the results of a survey carried out by the Office for National Statistics showed that for companies in the UK regulation is actually far lower on the priority list in terms of concerns. The highest concern is the macroeconomic context. But, it's very easy in the current situation where a government is enforcing unnecessary excessive austerity to deflect public attention onto a different issue. And in that way, it's purely ideological.

The idea that the health and safety legislation, that risk assessment at the workplace are somehow hindering the British economy is absolutely ridiculous. And it's that myth which has to be blown open. But it's true that the fact that the British government has taken this extremely ideological position, and that they are joined by other governments, means that we are now facing this threat through the EU Better Regulation agenda for further pressure on health and safety legislation.

On the 8th of December the European Council adopted a report from the Commission on the administrative burden on small and medium-sized companies. One of the recommendations in that report was to create a loophole for SMEs in terms of the Frame-work Directive and the obligation on risk assessment. This is a direct attack on a fundamental part of the European social acquis and that's not something that the ETUC or our affiliates are taking quietly. There is a lot of activity trying to ensure that the 1989 directive remains fully intact and the obligation on employers to undertake risk assessment is maintained as a universal principle and not subjected to loopholes.

1. The Advisory Committee on Safety and Health at Work is a tripartite body set up in 2003 by a Council Decision to streamline the consultation process in the field of safety and health at work. It is based in Luxembourg and is so known as the "Luxembourg Committee".

2. Based in Bilbao, the Occupational Safety and Health Agency (EU-OSHA) has the principal tasks of bringing together, and sharing, occupational safety and health information from EU Member States.

3. In March 2011, Professor Ragnar E. Löfstedt was asked by the British government to review health and safety legislation with a view to reducing the burden on business. His report was released in November 2011. Whilst concluding that there was no case for radically altering health and safety legislation, he did make a number of recommendations which propose changes to existing health and safety laws. Downloadable on http://www.dwp.gov.uk/docs/lofstedt-report.pdf

It's clear that Barroso’s “better regulation” ideology has had an impact on key initiatives for workers’ health and safety, such as the revision of the Carcinogens Directive and the adoption of general legislation on musculoskeletal disorders. Is the definition of a new Community strategy something of real importance when you look at the poor outcomes of the 2007-2012 strategy?

**JKD** — The closing stage of the Community strategy has also been a period of delay, putting off key initiatives. Two of the main concerns for European workers – work-related cancers and musculoskeletal disorders – are two issues that the Commission has skirted. The only way that trade unions can keep pushing is by building consensus on those two issues and by not being distracted by other issues on the agenda. So, what we have seen is that there is now a lot of focus in the European Parliament and in the Commission on the Electromagnetic Fields Directive. It’s a directive which is important but it affects relatively few workers. It’s a sectoral directive which is specific to the healthcare sector, defence workers and so on, but has relatively limited effect in comparison to those big concerns about carcinogens and MSDs.

That’s also an attempt to deflect attention and put pressure on a small directive and to put all of the focus on that rather than bringing forward the big questions. In the course of the last year, we worked extremely closely with the European Parliament to get a very strong statement in December through the Delli report which stressed the failure of the current Community strategy and reiterated the need for actions on these two key areas. We’ve demonstrated that we can create cross-party alliances. We have to remember that while Mr Cameron and Mr Barroso may be extremely critical, health and safety is subject to qualified majority and to co-decision. So the view of the EP is extremely important.

On the other side, we have to use all of the channels available to us. At the national level, pushing social dialogue, pushing activities which raise the bar, meaning that European rules naturally rise. At European level, using the Luxembourg Committee as effectively as possible to have a strong common position among workers in Europe, to ensure that within the Luxembourg Committee, within national forums, we are constantly demanding the same things and in that way, there is strength in unity. The report that the Luxembourg Committee finalized at the end of last year in terms of the new Community strategy demonstrates that strength and unity.

Politics is a fast moving business, and with a different constellation in the Council we could have a different situation. And we have key elections coming up. We have the French presidential election this year which we hope will produce a good result and will change the dynamics in the Council. We have the German election the following year. We need to make our own agenda in terms of health and safety to raise it up the political agenda and to ensure that it becomes a question in politics as well. By really taking very strong deregulatory positions Cameron and Barroso are potentially in a sense supporting the alliance-building of a more moderate and a more progressive position.

*At the ETUC, as well as health and safety you also have charge of environmental issues. How are you going to link these two things up?*

**JKD** — It’s the case in many Member States that the environmental and health and safety departments are relatively close in unions. In the ETUC, it was divided between two elected positions. There are obviously points where you have a potential for conflict as was the case when REACH was being negotiated. For me, and I think, for the new Secretariat, it made sense to bring those two together in the same position to ensure that one person is channelling that dialogue because it’s only through a strong dialogue within the trade union movement that we can try to identify where there are real concerns in terms of the health and safety situation, where there are legitimate questions to answer in terms of the industrial situation, and trying to find a consensus and a compromise between those positions.

We have strong strategic cooperation in a variety of areas with environmental organizations through the Spring Alliance but also bilaterally. We have alliances and cooperation with different stakeholders – animal protection, environmental, consumer – but also responsible business concerns. Those relationships have to be nurtured and it’s through dialogue and regular contact that you can strengthen those alliances because those alliances are based on trust effectively. I would see part of my role as to strengthen them further and to try and see how we can also get environmental organizations to take on trade union and workers’ concerns in the same way that I think the trade union movement has internalized environmental concerns.

*Since January this year, the European trade union movement is represented within the European Chemical Agency by the European Chemical Workers’ Federation. How will the ETUC ensure that the health of all workers, irrespective of their sector, will be defended within this body in charge of the implementation of the REACH regulation?*

**JKD** — It’s clear that in the period up to the adoption of REACH, there was a very strong and acrimonious difference of opinion between the ETUC and EMCEF on the impact of some of the core principles of the legislation. I think we should be clear that the trade unions were given a seat on the Board because it was recognised that the ETUC position had been based on workers’ health and safety. The three positions on the ECHA Board are industry, workers and the environmental organisations. And that’s essentially the three elements of the work of implementation of REACH. The concern is to push forward an industrial policy which is promoting...
When that seat was allocated, there was an European chemical industry and would kill EMCEF, together with the new leadership in Board. Different stakeholders are using that prevention alone.

In the position adopted in December by the ETUC Executive Committee, your organisation emphasized the need to mobilize the most neglected categories of workers such as migrant, precarious and self-employed workers. How are you going to operate, given that most people in these categories are not unionized?

### Bio-express

**JKD** — This is a real challenge, as any union rep will tell you. Addressing health inequalities in Europe effectively means addressing the quality of work and working conditions as part of a “Decent Work” agenda. Increasing labour market fragmentation demands different union strategies to reach workers, and it’s my intention to identify more examples of different union activities achieving this. Targeting activities on the most precarious groups and sectors of the labour market is urgently needed. However fundamentally we need a European health and safety policy which ensures access to and represent of all workers, regardless of employment status or company size.

Good union health and safety activities can act as a recruiting sergeant for the union movement to reach those currently outside its scope. Safety reps and labour inspectors provide an entry point towards workers who aren’t necessarily in a trade union but are concerned about their health and safety in the workplace. One of the key proposals in the ETUC resolution adopted last year was to strengthen the role of trade unions in health and safety policy and that’s, if you like, extending the arm downwards to the workplace, so extending the union work in the workplace on health and safety, in order to reach those workers who are the most vulnerable.

There is also obviously a sectoral dimension to it. We have had a series of projects on-running with the ILO training centre in Turin on decent work and against precarious work in particular sectors, addressing health and safety is a crucial element here, ensuring that it is part and parcel of our collective bargaining agenda. Part of the ETUC’s priorities is to link far more strongly with the European federations to connect up what has been done by the ETUC and what has been done in the sectors in different industries to provide us with as many synergies between our workers as possible and so we have start up contacts with a number of industry trade union federations. Clearly the work of the ETUI in bringing together research and practice will be a key tool in our arsenal.

**More information**

For more on the ETUC and health and safety at work policy, see the ETUC resolution “Perspectives for a new European Health and Safety strategy (2013-2020)” adopted in December 2011. Downloadable on [http://www.etuc.org/a/9506](http://www.etuc.org/a/9506)
Paying the price for putting in the hours

Special report coordinated by Laurent Vogel, ETUI.

The European Working Time Directive has been grinding through a painful revision process since 2004. With Council and Parliament not seeing eye to eye, the buck was passed to the European social partners to come up with a proposed way out by September. Labour history shows us that working time has ever been a bone of contention. Workers’ demands for the eight-hour day are a cornerstone of the labour movement. And the polemic around the French-style 35-hour week show that working time is still central to the labour debate. Organized union action has brought official weekly working hours in Europe down to help preserve workers’ health, but has been unable to hold back the tidal wave of flexibilization of working time. Night and weekend work, split shifts, long work days and overtime – or conversely, short hours not by choice – are becoming more common with the expansion of the service economy and new information and communication technologies. No category of workers is being spared – but the lowest-skilled and women are bearing the brunt.
The economic crisis has once again turned the spotlight on working time, one of the traditional cornerstones of the labour movement.

Image © Martine Zunini
Revising the Working Time Directive. A long and winding road

In November 2011, the European social partners notified the European Commission of their plans to start negotiating on working time. They have set a deadline of September 2012 to agree on a revision of the Working Time Directive after an unfruitful five years of discussions by the European institutions. The rocky road travelled shows the enormity of the task which will not be plain sailing, despite both sides’ avowed commitment to shoulder their responsibilities.

Séverine Picard
Legal Advisor, European Trade Union Confederation (ETUC)
Nearly 20 years after the Directive was adopted, the European Trade Union Confederation (ETUC) is still hoping for bold measures to get rid of the opt-out. European Court of Justice (ECJ) rulings have piled the pressure on the European institutions. The ECJ has held that "on-call time" (i.e., any period during which the worker has to be at the workplace at the employer’s disposal) must be classified as part of working time within the Directive. On-call time therefore has to be included in the calculation of weekly working hours. It must also be immediately followed by a compensating rest period.

Some Member States have dismissed these rulings and used them as excuses for applying the opt-out in order to by-pass the working time regulations in sectors like health services.

This makes a revision more necessary now than ever to re-establish clear rules for a modern organization of work.

**Strike one: 2004-2009**

In September 2004 the European Commission published a proposed revision of the Directive. Five years’ discussions failed to get it through the European Parliament and Council of Ministers.

The Commission proposal kept the opt-out, but on the basis of a collective agreement. In cases where no such agreement could be negotiated (small business; restrictive national legislation), the opt-out on the basis of an individual agreement would be maintained.

The Commission also proposed introducing the ideas of "on-call time" and "inactive on-call time" into the Directive. The so-called "inactive" part of on-call time – i.e., the period during which the worker must be available at his workplace but is not required to carry out his activity – would not be regarded as working time unless otherwise specified by national law.

The proposal would also have allowed the reference period to be extended to 12 months just through consultation with the social partners.

The ETUC was highly critical of these proposals which it argued would seriously water down the EU working time rules, rendering them virtually toothless.

The ETUC therefore stepped forcefully into the debate on the legislation which was subject to the co-decision procedure whereby the Council (composed of representatives of the national governments) and the European Parliament must reach agreement in order for it to be adopted.

Under the leadership of Spanish Socialist MEP Alejandro Cercas, rapporteur for the European Parliament’s Employment and Social Affairs Committee, MEPs adopted a proposal for a new Working Time Directive in first reading in May 2005. The ETUC acclaimed the parliamentarians’ clear progressive approach to the revision. The proposed text provided for the opt-out to be phased out over three years. Following ECJ case law, on-call time was treated as working time, although the EP included a specific system in which inactive on-call time could be counted.

In exchange for scrapping the opt-out, the
The ETUC therefore ran a large-scale awareness-raising and action campaign. It called a major protest in Strasbourg on 16 December 2008 to urge Parliament to reject the Council's decision and stand by its own first reading position, which the EP did by a hefty majority the following day. The subsequent last-ditch conciliation procedure to broker agreement between the EP and Council failed in early May 2009.

So, despite five years of discussions, the European institutions have failed to revise the Working Time Directive. But going back to square one is not a good result for anyone. A Commission report published in December 2010 revealed a high level of infringements of the Directive requiring repeated Commission action against Member States. Also, use of the opt-out is spreading (16 Member States in 2011). The Commission therefore quickly initiated a second attempt to revise the Directive.

### Second go: via social dialogue?

In March 2010 the Commission adopted a Communication on reviewing the Working Time Directive. It was the first step in fresh social partner consultations on the possible direction of European action. It was followed in December 2010 by the second phase consultation canvassing the social partners’ views on concrete proposals which gave them the option to reach their own agreement.

The European treaties allow the social partners to engage a dialogue that can reach an agreement within nine months. They have wide discretion as to both the content of the dialogue and the structure of discussions. The Commission then puts forward whatever agreement the social partners reach as a proposal for a directive for adoption by the Council. The Commission refrains from taking any initiative while the discussions are ongoing. If no agreement is reached, the job of coming up with a new legislative initiative goes back to the European institutions.

During both phases of consultation, the ETUC renewed its key demands: scrapping the opt-out; following ECJ case law on on-call time and compensatory rest; no extension of reference periods; and maximum working hours calculated per worker and not per contract.

The employers’ organizations want more flexibility in the current rules. Specifically, they called for a review of the case law on on-call time and annual leave (recent cases had held that workers retained their annual leave entitlement even when on long-term sick leave). They also wanted the reference period extended and the opt-out maintained.

The ETUC and employers’ organizations appeared to be poles apart. Concerned to shoulder their responsibilities and mindful of the importance of European social dialogue, the social partners therefore took the time to consider whether negotiating would serve a purpose. Both sides came forward with a shared desire to engage a good faith dialogue to take this crucial matter forward.

In November 2011, the European social partners told the Commission of their joint intention to start negotiations in December 2011. The Commission will be informed of the outcome of that dialogue in September 2012.

Clearly, the outcome of the discussions cannot be second-guessed. But one thing for sure is that the failure of five years of negotiations by the European institutions presages a bumpy ride.
The three aspects of time

Intuitively, the economic crisis should have filtered through into a decrease in working time. But surveys show that workers who escaped the mass layoffs are now working more than in 2008. So crisis and work intensification go together.

Laurent Vogel
Director, Working Conditions, Health and Safety Department, ETUI
In 1930, the British economist J.M. Keynes wrote an article on the economic prospects for his generation’s grandchildren, but not in fanciful crystal ball-gazing terms. He pondered the future of work, arguing that the wealth produced per capita would increase 4- to 8-fold over the course of a century. From this he inferred that working time could therefore be cut to three hours a day and fifteen hours a week. The same article contained the optimistic assertion that “the love of money as a possession – as distinguished from the love of money as a means to the enjoyments and realities of life – will be recognised for what it is, a somewhat disgusting morbidity, one of those semi-criminal, semi-pathological propensities which one hands over with a shudder to the specialists in mental disease”.

Length

The trend in the history of capitalist societies is towards spending less time in paid work. But the decrease is anything but steady or uninterrupted. Nor is it volunteered: organized labour action has had to wrest every gain. The decrease in working time falls far short of the increase in productivity. It does not automatically follow changes in the total amount of time spent on paid work in society. In terms of profit-making, high unemployment which forces wages down may actually be more advantageous than a workforce-wide equal distribution of working time. The trend also stacks up against recent findings. The European Working Conditions Survey shows that in 2009, 71% of workers saw no change in their weekly working hours. 18% reported an increase, and 11% reported a decrease. These figures refer only to workers who had kept their jobs. The increase in working hours has been particularly sharp in services like education, health and financial activities.

Average productivity in Europe rose 2.5-fold from 1970 to 2008 – a scale that bears out Keynes’ initial premise of 80 years ago. What took a 75-hour week to produce in 1970 can be produced in a 30-hour week today. These productivity gains stem from a combination of factors: investment in machinery and technical equipment, better educated workers more capable of handling complex activities, the rapid translation of scientific discoveries into productive applications, new forms of division of labour. Work intensification pulls opposing ways in this development: it boosts output, but imposes working conditions that detract from quality production. The harm it does to society is plain to see: a build-up of health problems, exclusion from the labour market, and a waste from substandard products or services.

Working time can be measured in different ways: over a working life, annualized, a weekly or daily average. That period is the basis for calculating the reward of those in paid employment. Time becomes the ultimate measure of work, sideling the actual substance of what is done and the social relations given expression by it. British historian Edward Thompson has shown how this new conception of work imposed itself over several centuries and threw the Western cultural universe out of joint.¹

No society can produce and reproduce without a set of activities that constitute work in some form. Depending on where and when they are done, some of these activities may be rewarded, others not, but even these are still a prerequisite for the general ordering of society. If paid work time is added to time spent working on unpaid activities in the EU, getting on for a third of women (32%) – but just one in seven men (14%) – work more than 70 hours a week. Looking only at paid work, two trends can be seen. The share of people working more than 48 hours a week is going down (13% of workers in 2010, mostly men).² In twenty years, the share of people working fewer than twenty hours a week nearly doubled from 8 to 14% in the twelve countries for which full, standardized statistics are available. By far most of these are women.

The dispersion between the extreme values is huge in the Netherlands, with a group of 5% of workers doing 60 hours, and about the same size group with a working week under 10 hours. The United Kingdom and Ireland show a very similar picture. In Poland, 5% of workers do 70 hours of paid work while the bottom 5% work around 15 hours a week.

Both overlong working hours and short part-time are often linked to factors that detract from the quality of work. Some are intrinsic to time and how it is organized (too long, variable shifts, unsustainable paces, working time and personal time at odds, etc.). The other conditions of work and employment bring their own drawbacks (low pay, health risks, job insecurity, lack of democracy in the workplace, etc.).

In terms of working conditions, part-time is not just full-time writ small. It means being lower down the job ladder, more unpredictable working hours and often monotonous and repetitive tasks. In sectors like cleaning, it can mean split shifts at the start and end of the day. As far as democracy goes, part-timers tend to be less involved in workplace matters.

Workweeks of over 40 hours may embrace a variety of situations. Among the highest skilled employees – especially managerial staff – they are linked to high incomes and career prospects, and some degree of choice of hours. Overlong work hours also stop women accessing top jobs. At the bottom end of the job ladder, they are the lot of very low-paid jobs, reflecting regular overtime working or multiple job-holding.

There are between-country differences in the distribution of jobs with long work weeks. In southern and eastern Europe, most are held by workers on the lower rungs of the job ladder. Overtime is an inevitable concomitant of low pay. In western mainland Europe, the United Kingdom and Ireland, long hours are more associated with skilled, non-manual male – usually married or partnered – workers. In the Nordic countries, working from 41

What took a 75-hour week to produce in 1970 can be produced in a 30-hour week today.

The overall impact on health

The different working time-related factors play into a range of health complaints. Surveys in Catalonia link long working hours to more critical mental health, high blood pressure and insomnia conditions. The health damaging effects of night and shift work have long been known. They bring on accelerated aging and contribute to cardiovascular diseases, digestive and sleep disorders. A link also exists between night work and breast cancer in women (on which see the box on p. 29).

Health economists have estimated the overall impact of work stress on the French population as causing between 310 000 and 400 000 physical and mental illnesses and between 2300 and 3600 deaths a year. The estimate is confined to three disease groups: cardiovascular diseases, mental health disorders and musculoskeletal disorders. And while working time and work intensity may not be solely to blame for this situation, they do play a clear role.

A study of irregular hours and absenteeism among manual workers sheds useful light on the strains of work. A fifth of all sickness absences among manual workers are due to irregular working hours. Adverse health impacts increase with age, peaking in the 40-49 age group (39% sickness absences), but still 30% for workers aged 50-59, where it can be assumed that some of these workers in poorer health may have lost their jobs or moved to a job with regular hours.

Accident risks increase exponentially above a maximum 7 to 9 hour working day. A study in the United States reports an approximately 61% increase in occupational accidents among workers working overtime. The consequences of long working hours also affect hospital patients due to the raised risk of serious medical errors. A similar trend is observed in activities involving serious risks to the public or the environment (transport, oil industry plants, etc.). The incidence of road traffic accidents increases among workers with long work days.

Further reading


Intensity

Like any unit of measurement, an hour is no more than an abstract concept. We have all known minutes that drag and days that fly by. Work is a physical activity that cannot be considered as a simple concatenation of time units. No analysis of working time that does not take workload into account can be complete.

Increasing time-pressure of work is the most notable development in working conditions surveys of the past twenty years. It is the result of interaction between different previously discrete constraints. The industrial constraint was mainly one of machine-paced work which expanded as increasingly tight production standards were introduced into departments. In all cases, the trend has been accompanied by the scrapping of jobs not governed by standards or governed by less stringent ones. The commercial constraint is a customer demand-driven pace of production. This constraint has always characterized a number of service activities, but has become widespread in the industrial sphere where the word ‘customer’ has come into metaphorical use for other businesses in a subcontracting relationship or a different department of the same firm. The chain-of-command constraint comes from the direct means of control exercised by management. It is having a knock-on effect through management methods focused on creating competition between small units (or individuals) within a firm. Some time pressure now comes not directly from superiors but from workmates. About a third of workers in the EU are subject to a combination of at least three different time pressure factors.

Intensification further worsens the conditions of paid work and also creates more challenging situations for unpaid work. Essential times such as for anticipation, reflection and emotion control, has been pared to the bone. This places a mental strain on workers which tends to linger outside their work. Increasingly, this mental workload is compounded by flexibility demands that require some work to be taken home. Being on-call through e-mail or mobile phone outside working hours has spread very rapidly.

Flexibility

to 50 hours a week is more often associated with skilled non-manual jobs, but less systematically so above 50 hours.

4. The question asked in the European Survey was on working hours in the main paid job. It cannot be used to calculate the total time worked by those with two or more jobs.
suggests that variable working hours over a year are associated with increases in a range of risks: work accidents, a combination of at least three physical strain factors, repetitive tasks, and disruptive interruptions of work. In the late 1990s, sociologist Danièle Kergoat observed that flexibility does not take the same forms for men and women. She described male flexibility as a spatial mobility with variations in terms of jobs, skills and tasks, as opposed to women’s temporal mobility closely linked to the spread of part-time work and more broken career paths. This analysis is borne out by ergonomic research indicating that women’s work is more frequently apt to be interrupted, largely as a result of social pressure that sees them as naturally at the beck and call of others (bosses, colleagues, customers, etc.) to meet unforeseen needs. ‘Flexibility’ is meant to be a positive word to describe a work organization that is adaptable to its changing environment. In most cases, this is a one-way street. Flexible work seldom adapts to the needs of employees’ non-working lives.

This article has given some idea of the multiple points at which the quality of working conditions and time are connected. The age-old struggle for shorter working time is as current as ever. It must be tied into demands for a work organization that addresses the problems caused by intensification and flexibility. This is the only way to improve working conditions and deconstruct all the times of life.

Further reading


The part-time trap

One of the most widespread forms of flexibility is part-time work. In the EU, three times more women than men are in part-time jobs. It has become the standard form of employment for women in some countries of Northern Europe: 80% of women in the Netherlands, more than half in the UK, between 40 and 50% in Germany, Sweden and Belgium. Even in countries where it accounts for less than 20% of female employment, the gender gap remains wide. Finland has 18% of women in part-time work against 9% of men, while 10% of women versus 3% of men work part-time in Greece.

But part-time work does not free up ‘me’ time for women outside the sphere of domestic work. The total time taken up by domestic work plus part-time paid work for women is the same as that for men in full time jobs, whereas working part-time entails only a slight increase in domestic work for men. Their time is released for distinct personal interests (studing, arts, sports, etc.) concentrated in one part of life (especially among those at the start or end of working life). Family circumstances (number of young children) have only a limited influence on male part-time work. This is what makes the distinction between voluntary and involuntary part-time work so simplistic. It discounts the fact that in some jobs, there simply is no choice because the only jobs on offer are part-time. It assumes an individual choice, discounting the social relations that condition it. As the Spanish economists Carrasco and Mayordomo have observed, "Decisions by women in relation to the organization of their working times (both market and domestic work) generally take into account the well-being of the other members of the household, a result of her 'availability', of having to attend to the needs of others. The opposite occurs with men, who – whether consciously or unconsciously – assume that these are the women's responsibilities. Employment opportunities for women are therefore restricted by the different social forces that map out their boundaries: the patriarchal tradition, the family environment (dependants in the home, financial status, possible help networks that she can create or participate in), public supply of care services, and the regulations and characteristics of the labour market."

Part-time work distributes unemployment among women. The Netherlands has one of the lowest unemployment rates in the EU, but if employment rates are recalculated by converting part-time jobs into full-time equivalents, it is out-performed by Portugal. The large-scale use of part-time work means that women’s share of total revenues (wages plus unemployment benefits) is well below that of men. Countries where women’s part-time is becoming more widespread are often those with the most marked genderized sectoral and occupational segregation. From this viewpoint, too, Portugal appears to be much more egalitarian than the Netherlands.

The pay levels of part-time work are often too low to support full financial independence. A vicious cycle arises that tends to trap women into a family-dependence regime, laying most of the burden of domestic work on them. It also reduces the replacement income from social security. Sickness and disability benefits are lower, unemployment benefits refused or granted at levels that are irreconcilable with an independent life, while pension entitlements are slashed to the bone from combining frequent periods of part-time work with time out of the labour market.

Further reading


Balancing work and family: women workers walk a tightrope

Even with the changes in society like women's large-scale labour force participation and narrowing gender gaps, women still shoulder most of the family and household responsibilities. A "double duty" that weighs heavier on those with no option but to work unsocial hours.

Marianne De Troyer
Senior researcher, ETUI
By their 50s, these women teachers are realising that they are paying the price of working and juggling family responsibilities for years.

In 2010, employed women in France spent an average 24 hours a week on housework and home management compared to the just 15 hours – even this longer than before – spent by employed men.¹

Are working women’s work hours (standard or non-traditional) a factor in the work time/family time split? Research into this question through studies of different job-types done by women and mothers with young children shows that balancing paid work with domestic/family obligations is never straightforward whatever type of working hours they have.

These studies have found that women workers deploy common strategies to cope with work and family constraints, but which nevertheless impact on their health, careers and early retirement decisions, as illustrated by research done among nursery and secondary school teachers, call centre telephonists and hospital nurses.

Teachers

The self-organization of time and space by women secondary school teachers² in France is distinguished by the coexistence of working times at school and at home (lesson preparation, correction of exercises, pupil monitoring, etc.). It is a flexibility that mothers of young children value as making it easier to organize their personal and professional lives. But an analysis of these workers’ time use diaries³ shows that their work life in many cases extends to six or all seven days of the week. They also reveal a latticework of simultaneously performed work and family activities: driving children to extra-curricular activities, sitting and working in the car while waiting for them. Thus, women teachers use the flexibility that their profession allows to develop strategies that avoid disrupting the lives of their children and partner. The organization of “out of school” work is shaped first and foremost by family and domestic constraints.

These constraints also hold back their professional careers: career advancement or retraining is put off or done in stages until the time when “the children can fend for themselves and the family burden placed on them has lessened”. These time strategies are exclusively female; they are not found among male teachers with partners and young children who have passed the state competitive examinations to acquire graduate teacher status or headship appointments and readily admit that their partners’ assumption of all the domestic and family duties has helped them, as these examinations are highly demanding of time and energy.

A study of women nursery school teachers who have applied to take early retirement shows that their work life in many cases extends to six or all seven days of the week. The researchers use this diary as the basis of their analysis often supplemented by interviews with the workers surveyed.

3. The time use diary is equivalent to the ‘week’ page of an ordinary diary in which each worker records her work, domestic or family activities at quarter-hour intervals over a full week. The researchers use this diary as the basis of their analysis often supplemented by interviews with the workers surveyed.
4. INSEE Premières, Enquête "Emploi du temps", No. 1377, November 2011 (French national statistical institute time usage survey).
Balancing work and family life is more complex still where working hours are non-standard (night work, rotating shift work, etc.), change regularly and especially where they are unpredictable.

A study done for the Quebec labour union Fédération des travailleurs et travailleuses du Québec (FTQ) among 30 female telephonists with young children working unpredictable flexible rosters analyzed the strategies they used to be available for work and for their children.

The variability of these telephonists’ work rosters is highly restricting: a worker “can start at 8 am on Monday, 4 pm on Tuesday and 6 am on Wednesday; and weekly days off are just as variable. They get their roster three days before it starts, which means having to arrange childcare at very short notice”.

Organizing family members’ routines (meal times, doctor’s appointments, children’s leisure activities, school obligations, partners’ work time constraints) is doubly difficult because these telephonists are not allowed to make or receive personal phone calls during work time!

These women workers deploy a range of strategies to fulfil their work and family obligations: arranging changes to their shifts, keeping in with the boss, saving up time, setting up a childcare network (of up to eight people in some cases), rearranging their shifts to avoid clashes with their partner’s work hours, or working evenings. All this makes demands on their time, resolve and inventiveness. These crossovers seriously impact on their physical, psychological and mental health.

The author highlights the differential treatment of the “personal” issues common to both sexes: break times, lunch times, etc., which are often governed by law or regulations, and child or eldercare which the woman worker alone has to deal with. Fundamentally, the difficulties of balancing work and family life seem as individual problems actually stem directly from working conditions.

Nurses

In a survey done in 2008-2009 in Belgium among female hospital nurses’ with a child aged six or under and non-standard, variable, fairly unpredictable working hours, 62% of those surveyed reported being unable and 17% rarely able to set their own rosters, while 45% could never and 36% could but only very rarely leave early or arrive later for personal reasons.

The authors reveal a conflict between work and family from restrictive rostering for 41% of the respondents who felt they were putting work before their family. Only 5% of respondents claimed to put their family before work.

The work environment was not perceived as very supportive of work/life balance in this survey. Paradoxically, male nurses judged their working conditions to take better account of their family constraints (allowance made for children in setting work and holiday rosters, support from co-workers, line superiors, management) than their female colleagues.

However, male more than female nurses thought their employer was more accommodating of their family constraints where such things as work and holiday rostering were concerned.

They are readier to stand in for a colleague than female nurses, for example, including in couples where both are nurses. The unequal division of domestic labour must again be held accountable.

Organizing family members’ timetables is doubly difficult because these telephonists are not allowed to make or receive personal phone calls during work time.
Sleepless in the North Sea

Work on offshore platforms for oil or gas is an intrinsically dangerous activity. The non-standard hours worked in the industry add to the risk of accidents. But UK courts seem to doubt it.

Rob Edwards
Freelance journalist, www.robedwards.com
Spring-summer 2012/HesaMag #05

Jake Malloy is angry. Sitting in his cramped and recently flooded office near the docks in Aberdeen, he is talking about his union’s 20-year campaign to reduce the working hours of North Sea oil and gas workers.

The UK’s highest court has recently ruled against the union. “Nothing’s changed,” he says. “Offshore workers continue to work 12 hours a night in very hazardous, high risk environments.”

Malloy, the offshore energy organiser with the National Union of Rail, Maritime and Transport Workers (RMT), lost a legal battle in the Supreme Court in London in December 2011. Technically, it was about the application of the European Union (EU) Working Time Directive to offshore workers, and what that meant for legal holiday entitlements.

But underlining the arguments were different visions of the kind of working life, and the kind of society, that people in a modern industrial age deserve, and how to balance that against profits made for shareholders. For many, the outcome clearly demonstrated that the UK North Sea oil industry has a long way to go to deliver a decent job for its employees.

Malloy, an offshore worker who founded the Oil Industry Liaison Committee in 1997, an independent trade union now merged with RMT, is cross that other unions didn’t support the workers’ case. He is furious with the employers for fighting all the way, and dismissive of the judges who made the final decision. “The wrangling ended with five men who have no concept of what life offshore is actually like deciding that we have no entitlement in law to take time off work for a holiday,” he says.

Underlying the arguments were different visions of the kind of working life, and the kind of society, that people in a modern industrial age deserve, and how to balance that against profits made for shareholders. For many, the outcome clearly demonstrated that the UK North Sea oil industry has a long way to go to deliver a decent job for its employees.

Malloy is particularly upset that the judges were influenced by the suggestion that North Sea oil workers were like teachers or professional footballers, and so didn’t need legal holiday entitlements. This also infuriated scores of workers who sent in emails to RMT protesting about the court decision.

“What planet do they come from?” one offshore worker demanded to know. “Let them see our lives out here. We have to sleep on a time bomb for nothing. They make me weep.”

“I’m so angry I’m finding it hard to put this into words,” said another. “Does a footballer or teacher risk their lives in a dangerous environment on a daily basis?” asked a third. “I think not.”

Judges were accused of a “staggering level of ignorance” about the offshore industry. “I have a sick feeling right to the pit of my stomach, after all these years of hoping that the high and mighty, educated men and women at the highest court in the land would see our side of this issue,” commented one worker.

The court decision was variously described as “shocking”, “unacceptable” and “a disgrace”. “This just goes to show the employers don’t give a damn about health and safety – just profits,” argued another worker.

Long legal battle

The legal battle began back in 1992, with a trade union trip to Brussels to lobby the European Parliament to extend the Working Time Directive to offshore workers in the UK. They wanted UK employers to abandon the two-weeks-on/two weeks off rota in favour of two-weeks-on and three-or-four-weeks-off, in common with workers in the Norwegian sector of the North Sea.

After the election of a Labour government in 1997, the UK embraced the EU
working time regulations and, after pro-
longed negotiations, agreed in 2003 that they
should cover offshore workers. That, however,
was only the start of the fight.

North Sea employers launched legal
proceedings, arguing that the regulations did
not apply beyond 12 miles of the UK shore.
For three years they argued their case at an
employment tribunal and then at an employ-
ment appeal tribunal, and lost.

Then in 2007, the trade unions took
employers to an employment tribunal argu-
ing for two weeks paid leave every year, and
won. "It is the conclusion of the tribunal that
the claimants are entitled to fourteen days
of annual leave, to be taken at a time or at
times when they would otherwise be working
offshore," the tribunal said. Complaints that
offshore workers had been deprived of their
rights under the working time regulations
were "well-founded".

The employers, however, appealed and
lost. "All time offshore is working time," he
maintained. "You're in your bed, but still
available for work. You can be called upon to
work, and you've still got to respond to alarms
and emergencies. You're still subject to con-
trol by your employer, and your 12 hours off
aren't necessarily your own."

Malloy argued that the long hours
worked offshore were bound to cause fatigue,
damage workers' health and increase the risk
of accidents and oil leaks. This is particularly
so for the 6-7,000 drill workers who make up
a quarter of the UK's offshore work-
force, work in the most dangerous environ-
ment, and tend to have less time off.

"They carry out the most physically and
mentally demanding tasks in the industry and
they have no entitlement at all to any reduc-
tion in hours. In fact their annual hours are
increasing, year on year, because of the need
for greater competency, greater skills, more
training," he said. "For a drill worker, one slip
and you're looking at a major injury. If you've
got lumps of metal flying about on a pipe deck,
or a drill, you've got to be 100% focussed on
the job. You cannot have distractions."

**Accident risk**
The type of accommodation the workers have,
and the amount of sleep they get, are crucial.
Although most workers in the Norwegian
sector now have their own cabins, many UK
workers still have to share with one or even
more colleagues. That can mean cramped con-
ditions, lack of storage space and sleep often
disturbed by people snoring or moving about.

Malloy recounted a series of horror sto-
ries about toilets overflowing and cabins
being flooded by sewage. It's worse than being
in jail, he joked. "You cannot over-estimate
the stress the men are under. Lack of sleep,
alarms going, doors banging - they really
can't manage all of this. They need privacy
and comfort."

The trade unions are backed by Co-
lin MacFarlane, an emeritus professor at
Strathclyde University's marine engineering
department in Glasgow. "Fatigue, sleep defi-
cit and changes of shift are all substantially
correlated with workplace accidents," he said.
"And chronic fatigue and sleep deficit are cor-
related with longer term health problems."

He quoted research suggesting that
shift workers had a 40% increased risk of
heart disease. There was evidence that long
working hours caused more physical aches
and pains, as well as greater mental stress.


Skidding the rig: John Price

When North Sea operators have to "skid the rig" to move to different oil wells, John Price wakes up. "The anchor winch is directly through the bulkhead in my cabin, which is very noisy," he says. "Not just noisy, it vibrates you out of your bed."

Hailing from Ayr, John has been working offshore since 1992, and has been a driller since 2004. He gave evidence to the Aberdeen employment tribunal in support of the trade union case for short working hours in 2007, alongside Mikey Craig.

His work patterns, however, have been different. He has worked 12-hour day shifts from 7am to 7pm every day for two weeks offshore, followed by a two-week break onshore. He has then returned to the rig to switch to working nights from 7pm to 7am for two weeks, reverting to day shifts again on his next trip offshore.

Sleep when offshore is crucial for health and safety, but John didn't always get enough. It's the luck of the draw which sleeping cabin workers get allocated, he points out.

"I'm in one of the noisiest cabins on the rig, which is directly under the helideck, which means that when you have two choppers a day and you are on night-shift you get woken up twice a day," he says.

"The shifts are long and hard and I am exhausted by the end of each one, especially if I am on nights and not sleeping well. I am usually drained and exhausted at the end of my two week stint offshore."

Working nights is the hardest, John points out. "The night shifts really take it out of me. On my return home it takes three to four days to adjust after working night shifts."

His job is "very tough" and "extremely stressful" because he works under great pressure, he says. "We have to work in all weather conditions including rain, snow and high winds. It can be extremely cold on the rig in the winter and the working conditions can be far from pleasant."

There were some indications that the longer shore breaks common in Norway could have resulted in fewer injuries than in the UK, though comparisons were difficult.

Some particularly telling studies showed that staying awake for long periods can impair the ability of people to perform tasks just as if they were drunk. A single period of 17 hours wakefulness is like having a blood alcohol content of 0.05%, with 19 hours awake equivalent to 0.1%. The legal limit for driving a car in the UK is 0.08%.

"Offshore installations are being operated by personnel whose decision-making capabilities make them very unsafe for driving," said MacFarlane.

Fatigue makes workers more likely to make errors and miss out important tasks. "In that way the barriers to stop larger accidents are degraded," he argued. "On top of that, fatigue will make the reactions to emergency events more prone to mistakes. I think that we've seen that often when situations offshore move away from the normal, or commercial stress builds."

MacFarlane pointed out, though, that the evidence showed that most of the dangers from fatigue were concentrated in night shifts worked for 12 hours for either seven or 14 days. A Norwegian study in 2007 found 30% more serious injuries occurred during night shifts compared to day shifts, particularly among maintenance and construction workers.

Sleep deprived

The point is reinforced by Dr Kathy Parkes, a psychologist from the University of Oxford who authored a report in 2010 for the UK government’s Health and Safety Executive (HSE) on the impacts of working hours in the North Sea. Although offshore workers are healthier than onshore workers because they have to pass more rigorous medical tests, "the scheduling of offshore day and night shift work does pose problems," she said.

"But the health and safety effects are primarily due to the need for the body clock to adapt to night work, especially if rapid day and night shift changes are involved, rather than to long work hours as such." According to figures from her report, working 14 straight night shifts was like having 28-hour jet lag, and resulted in an average "sleep deficit" of 16 hours. Working seven night shifts followed by seven day shifts resulted in a 62-hour jet lag and a sleep deficit of 20 hours (see Table).

Parkes recommended that working seven nights and seven days, known as a "rollover", should be avoided if at all possible. "If a mid-tour rollover schedule is retained, the additional health and safety risks

Table 1 The sleep lost by night shifts

<table>
<thead>
<tr>
<th>Shift pattern offshore</th>
<th>Disruption to body clock (‘jet lag’)</th>
<th>Sleep deficit</th>
</tr>
</thead>
<tbody>
<tr>
<td>14 day shifts</td>
<td>14 hours</td>
<td>13 hours</td>
</tr>
<tr>
<td>14 night shifts</td>
<td>28 hours</td>
<td>16 hours</td>
</tr>
<tr>
<td>7 day shifts followed by 7 night shifts</td>
<td>26 hours</td>
<td>18 hours</td>
</tr>
<tr>
<td>7 night shifts followed by 7 day shifts</td>
<td>62 hours</td>
<td>20 hours</td>
</tr>
</tbody>
</table>

Source: Offshore working time in relation to performance, health and safety: a review of current practice and evidence by the University of Oxford for the Health and Safety Executive (Parkes 2010)
inherent in this system should be recognised and mitigated by reduction in workload and/or provision of an extra team member in the work area concerned," her report concluded.

The North Sea oil and gas industry recognised that the welfare of workers was key to safety, and agreed with the need for "sufficient" rest periods. "Typical offshore rotas allow for over 26 weeks onshore, away from work, which the Supreme Court recently ruled more than meets the requirement of the Working Time Directive," said Alix Thom, the skills and employment policy manager with Oil & Gas UK, which represents employers.

"Many shift patterns already allow employees more time at home than they spend offshore and some companies gift additional leave. These were provided by companies going over and above what they were legally obliged to provide and we are not aware of any company planning to reduce this as a result of the Supreme Court decision."

This will not, however, be much comfort to Jake Malloy as he taps his keyboard in his bare-boarded dockland office. In his experience, the problems being suffered by his offshore union members are getting worse. He recites a litany of recent complaints, including one from a stewardess who suffered severe panic attacks before boarding a helicopter to a rig.

"I'm dealing now, today, with more working relationships breaking down than I've ever come across. It's the stress and strains of being hanged up in poor accommodation with increasing workloads," he says.

"Workers are complaining about their peers for things which years ago would have been a bit of a banter. There is no fun any more. It has become a very intense environment to the point that you can be disciplined for one slip of the tongue. That causes any amount of anxiety."

Malloch reckons that workers in the offshore industry, with partners away from home for weeks on end, have one of the highest divorce rates of any industry. "They are suffering a lot more anxiety, mental health problems, panic attacks and stress," he says. "They simply can't cope." The fight to reduce their working hours continues.

Further reading

National Union of Rail, Maritime and Transport Workers: http://www.rmt.org.uk

Oil Industry Liaison Committee: http://www.oilc.org

Andrew Watterson: http://www.nm.str.ac.uk/people/andrew-watterson.php

Colin MacFarlane: http://www.strath.ac.uk/na-me/people/profcolinmacfarlane

Kathy Parkes: http://psyweb.psy.ox.ac.uk/stressgroup

Giving it a blast:

Mikey Craig

Mikey Craig likes to play the bagpipes. But when he is working offshore on a North Sea oil rig, he can't practice in the confines of his small accommodation module for fear of disturbing others. So he dons his boiler suit, boots and hard hat and heads for the helideck, where, weather permitting, he can give Scotland's national instrument a good blast. Even there, though, he has had complaints from fellow workers, who apparently prefer the noise of high pressure blasting and paint spraying to the skirl of the pipes.

Mikey is a 44-year-old radio operator from Perth who has been working offshore since 1989. He gave evidence in support of the trade union case who has been working offshore since 1989. He gave evidence in support of the trade union case for shorter working hours at an employment tribunal in Aberdeen in 2007, where he disclosed his bagpipe problems.

It's just one of the examples he gave of the stresses and strains of working unbroken 12-hour shifts from 7am to 7pm every day for three weeks while cooped up on a rig in the middle of the wild sea. He sometimes has to work overtime too - up to an extra four hours a day - when helicopters arrive out of hours or in emergencies.

Working such long hours, Mikey needs his sleep and relaxation, but they are often disturbed on a rig. He can be woken in the middle of the night to re-establish radio communication broken by bad weather, or to deal with an emergency, or sometimes by false alarms. Because of the "adrenaline rush," he says it is hard to get back to sleep.

Rigs are also very noisy places, even at night. Mikey, who has been an elected trade union safety representative, recalls how the racket from a 24/7 spraying and repainting exercise kept him and others awake. The noise and vibrations from anchor adjustments, or heavy steel containers being landed from supply ships, can also be disruptive.

Sometimes, he has had to share sleeping cabins with other workers, which he found very uncomfortable. "I am often woken through the night when my co-habitant snores, or needs to visit the toilet," he says. "I am also woken sometimes by noise which is going on outside my cabin."

Mikey maintains that it is impossible to get proper rest when he is on the rig, because he is never really off duty. "When I am offshore I feel very isolated from my home life, in fact isolated from everything except the rig," he says. "There is absolutely no escape."

"Sometimes my wife struggles without me being home to share the burden of certain family and domestic problems. This can put a strain on our relationship at these times where she has to take on my role as husband and father in my absence."

After working for three weeks, Mikey gets to go home to his family for three weeks, but it takes time to adjust. "My wife and I both struggle for about three days after I return home before I can switch off from being on the rig," he says.

"When I have adjusted to being back home, I enjoy the same sort of life as any other normal individual. I enjoy spending time with my family, going for a meal or a drink with friends, walking in the hills around Perth, playing a round of golf."

"But most importantly I enjoy the natural comfort of sharing a bed with my wife and being a husband and father. These are the interests I cannot and I have never been able to pursue whilst I am hundreds of miles away, isolated on an offshore drilling rig."
The night shift: working against the body clock

With globalization and the expanding service economy, night work is changing from the exception to the rule for many. Driven by the "customer is king" principle, a growing body of employers are forcing employees to work hours that are out of sync with body clocks and life in society. As the case of an express delivery services company shows.

Denis Grégoire
Editor
The icy mist shrouds the concrete parking lots sandwiched between the motorway and fields blanketed in a thin layer of snow. It is 11 pm and the digital dial on the outside thermometer reads −7°C. Shadowy figures hurry along the road. The first arrivals jockey to get in the revolving entrance doors. In half an hour, the night shift will get under way at Bierset airport in the Liège hinterland (eastern Belgium). The TNT international express delivery services company moved in 1998 from Cologne, which it had outgrown, to set up its air hub here, through which pass its fleet of 45 aircraft, offloading around 460 tonnes of cargo every night, most headed for European consumers. Almost all the airport’s traffic is freight services, for it is ideally located hard by a motorway junction for easy delivery lorry access to big cities like Paris, Frankfurt, London and Amsterdam – all within a 400 km radius – while other goods are air-freighted on to their final destination.

Igloos and MSDs

The forklifts whizzing around in top gear look like a disaster waiting to happen. "We don't get many bad accidents, the odd fracture or so since 1998, but not a single fatality," says TNT Human Resources manager Thierry Liégeois reassuringly. "The most frequent accidents are hands getting caught under packages, and falls or slipping on stairs," he says. The unions agree up to a point, but add a list of ailments that workers suffer. Musculoskeletal disorders (MSDs) are the worst. "A lot of workers have back problems. Slipped disks are common. Management sent round "back instructors" to teach us good handling practices. If we did it their way, not a single customer would get their package on time," says FGTB chief shop steward Louis Saint-Remy.

Even a fully mechanized delivery services company can’t operate without thousands of human hands. The cardboard boxes may not be all that heavy (anything over 30 kg is handled mechanically), but four straight hours’ heaving them around adds up to a total load of several hundred kilos a night.

Also, the shipping containers are designed for aircraft, not human, body shapes. The ULD (Unit Load Devices – dubbed "igloos" by the workers due to their shape) packers can’t work upright and are forced into awkward postures to do their jobs.

While workers tend to cite MSDs when quizzed about their occupational health, surprisingly few think to mention the effects of night work, even though there is plentiful evidence that this unnatural activity is hazardous to health (see Box). "You get used to it," most workers reply, with some even adding, "I couldn’t work days now". "It's mainly during holidays that the tiredness gets to you," they say. Each time, it takes several days for their bodies to readjust to normal daytime activity. What seems to get to them most is natural light starvation, especially in winter when they wake up with just two or three hours of daylight to enjoy. "My GP prescribes me vitamins and says I should use a sunbed," says Pablo Jurado. That aside, the young union steward is happy with his working conditions. "Before TNT, I worked in a foundry for several years. You can imagine that was a much harsher work environment," he adds.

Most of the workers interviewed didn’t have too much to say about themselves. What concerns them more is the impact of

The shipping containers are designed for aircraft, not human, body shapes.
1,100 euros a month. A beginner working 20 hours a week earns about 5.

The analysis report on the latest results of the European Working Conditions Survey found that on average male night workers spend more time on care activity than other workers. 5.

The workers, aged between 25 and 35 on average, may have few enough complaints, but it is a fact that the work is gruelling on more than one count: disrupted biological clocks, handling loads at an unrelenting, machine-set pace, the very high pressure of meeting extremely tight deadlines dictated by commercial imperatives, and so on.

This cocktail of stresses can bring some to near breaking point. "Generally, people only start to complain after four or five years at the job, and the older they get, the harder they find it to work nights. It isn't something that creeps up over time. They can crack overnight. Some can't stand it any more and fall into a depression. It can happen as much to 20-year-olds as to older workers who've been fine with night work up to that point," says Louis Saint-Remy.

Ironically, part-time work increases the risk of burnout. TNT workers are not overpaid for a 20-hour workweek, so many workers try to top up their income with daytime work. Union stewards reckon that at least 80% of staff have a second job — on or off the books. Many also work in the catering industry, another high risk sector for stress.

"If you've got a family to keep, there's a demand there. Your wife has needs, so do your kids. And then you've got TNT with its own demands, with night work, with pressure from managers and supervisors. Some workers can't take it any more, mentally or physically. They end up with ulcers or high blood pressure. We've already had to call an ambulance out at night for a worker whose blood pressure was up at 180 / 190 over 80," says Hassan Lyazghi.

The main health problems from night work

Sleep disorders: the quality of daytime sleep is poorer than nocturnal sleep (because of noise, light, higher temperature), and shorter - generally two hours less per 24 hours compared to a day worker. The lack of sleep leads to drowsiness and an increased risk of accidents at or away from the workplace (road accidents, for example).

Digestive disorders: gastric acid production is known to follow a circadian rhythm (approximately 24 hours) which can be disrupted in night workers. Also, night work does nothing to promote healthy diets (eating ready meals, excess coffee consumption, imbibing alcohol in some cases, etc.).

Cardiovascular problems: recent studies have shown a relationship between night work or shift work and the risk of coronary heart disease resulting from disruption of the nervous system or hormone secretions, which increase the risk of arrhythmias and cardiac conduction disorders, and damage to artery walls.

Psychiatric disorders: night work is a source of stress and chronic fatigue, and may also be linked to an increased risk of depression.

Cancer risk: in 2008, the International Agency for Research on Cancer (IARC) classified night shift work (irregular, alternating periods of day and night work) as probably carcinogenic to humans. The IARC experts' conclusion was based on experimental animal tests and epidemiological studies among nurses working night shifts and airline stewardesses subject to frequent phase shifts. The studies point to a higher risk of breast cancer among these employees than those with more standard schedules. Night work is thought to disrupt the internal biological clock that regulates the alternating periods of wakefulness and sleep. Long-term exposure to artificial light at night inhibits melatonin or "sleep hormone" production, which impairs the immune system. It also resets clock-controlled genes that can result in the formation of cancer cells. Melatonin’s role on oestrogen secretion may explain the excess risk of breast cancer.


Further reading


their non-standard working hours on their families. Being out of sync with the normal rhythm of other family members, especially children, and society in general inevitably leaves them somewhat marginalized. "I've got a seven-year-old son. At first he used to ask, 'Daddy, why do you sleep all the time?' He plays football on Saturday mornings. One time I couldn't get to the match because I was flat out. He cried all afternoon. Now he understands and he instinctively keeps his voice down and keeps the TV volume low," says 40-year-old Hassan Lyazghi. On the plus side, night work can free up time that day workers generally don't have: "I can take my son to school in the morning before getting my head down, and collect him afterwards," he enthuses.4

The employee reps think that the ability to work when children are sleeping and be there for them when they are awake may be one thing that draws some women employees to the job. From just a few when TNT first set up in Liége, women now account for between 10 and 15% of its workforce.

Sky-high blood pressure

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The challenge of older workers

For all the many drawbacks of night work, staff turnover is not high. And absenteeism “is no higher than in banks or insurance companies,” says Thierry Liégeois. The HR manager’s opinion is confirmed by the unions who estimate that absenteeism among manual workers runs at 6 to 8%, but that it can rise up to about 25% among supervisory staff. “They are under pressure from both sides: from the workers they supervise and from their own superiors. They sign off the flight documents, so it’s their responsibility if a problem crops up during the flight, such as from unbalanced stowage. Those who hold up best are those who started at the bottom of the TNT ladder because they know the ropes. Those who come in from outside often can’t hack it,” observes Léon Saint-Remy.

Any express packages not delivered before noon the following day is not charged for. This undertaking by TNT to its customers makes for an extremely rigid organization of work. That makes it economically vital for the company to ensure good labour relations: a few hours’ walk-out can bring a system that runs like clockwork grinding to a halt, resulting in millions of dollars of losses. Both company and unions know that full well.

“Social dialogue with management is good,” comments Léon Saint-Remy who will be taking his pension soon. In return, the company offers wages that may seem on the low-ish side but calculated on an hourly basis lie more at the upper end of the regional average. Workers also get fringe benefits like a year-end bonus (“thirteenth month”), supplementary pension insurance, hospitalization insurance, etc. TNT also offers fast-track career advancement opportunities for the best-motivated employees – something which the workers here, many of whom have no paper qualifications, would likely be harder put to find in other companies in this region where unemployment stands at around 20%. “We try to spot potentials”, says Thierry Liégeois, who himself started with TNT on the tarmac before earning his manager’s stripes.

This staff retention policy could backfire in the years ahead when workers aged over 50 could make up more than 10% of the workforce, because under Belgian law, workers over 55 with 20 years’ of solid night work behind them can apply to come off nights without having to show medical grounds. “We’re thinking about that. Working groups have been set up. Things have already been done to lighten the load on older workers. But for a company like ours, it would clearly be economically impossible to reassign 150 workers to the day shift,” says the Human Resources department. Night work still has a bright future ahead of it in the express delivery services economy.

The European Foundation for the Improvement of Living and Working Conditions’ survey on perceived working conditions done in 2010 among 44 000 workers reports that:
— 19% of EU workers work between 10 pm and 5 am for at least three hours a month: 23% of male and 14% of female respondents;
— 25% of the men working these nighttime hours are aged between 25 and 39;
— 16% of the women are under 25;
— 10% of the workers work nights more than 5 times per month.

The survey’s authors note in their analysis report that night work is strongly correlated with non-standard work contracts, as well as with shift work, and to a lesser extent with long working hours.

How many people work nights in the EU?

The European Working Time Directive defines a night worker as “any worker, who, during night time, works at least three hours of his daily working time as a normal course”, and “any worker who is likely during night time to work a certain proportion of his annual working time”.

Official EU statistics estimate that 7.4% of employees in the European Union (EU) worked at night in 2010 (see Table 2). That figure was 7% for the EU-15 in 2001.

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<thead>
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<th>Table 1 Night work and health (men, %)</th>
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<td>Able to work at 60 — yes I think so</td>
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<td>Night workers</td>
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<td>Non night workers</td>
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Source: Fifth European Working Conditions Survey, Overview report, 2012

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<th>Table 2 Population in employment usually working at night (2010)</th>
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<td>Percentage of the total employment aged from 15 to 64 years</td>
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<td>Belgium</td>
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French managers and flexitime. How the annual working days system is used and abused

The "annual working days system" for calculating working time came about with the introduction of the 35-hour week in France. It has gone way beyond the "non-office-based managers" originally aimed at and is open to abuse. This means of regulating managers’ individual working time is anything but straightforward, especially when the workload increases. But employees by and large like it.

Isabelle Mahiou
Journalist
The system for calculating annual working time in days originally intended for managers with self-arranged working hours (see Box) – the annual working days system (AWDS) – appeared in France in 2000, tied into the work-time reduction (RTT) scheme established by the Aubry Acts: the celebrated 35-hour week. "We saw it as a break with double standards: managers typically don’t keep count of their hours, so we needed a system that doesn’t rely on clocking on and off and offers compensation through days off. And managerial staff were pretty much in favour", says Jean-Paul Bouchet, General Secretary of the CFDT Cadres white-collar union. As Philippe Masson, of the Rights and Freedoms Alliance of the CGT’s union of engineering, managerial and technical staff (Ugict-CGT) says, "this method of reducing working time [...] was based on the belief of many managerial staff that taking extra time off was the only way out of an increasingly all-consuming time and pace of work, and to fulfil their desire for more freedom to organize their work and leisure time".

LFoundry manufactures integrated circuits (650 employees including 140 managerial staff) in Rousset (Bouches-du-Rhône). "The employees concerned were mainly looking at the 18 days they could take off (RTT plus public holidays) for 218 worked", says Patrick Chini, CFDT union rep for managerial staff. "But at the same time, when we’d already gone over to the 35-hour week, the problem of managerial staff working too many hours had reached crisis point, so AWDS offered a way out". It’s the same story at Thales Systèmes Aéroportes (Thales Airborne Systems) in Brest, Finistère (450 managerial staff concerned): "Management was keen to bring in a different system because the labour inspectorate had come down on it for unpaid overtime working. RTT days off and freedom to organize their time found willing takers – only 27 people out of 450 refused and stayed on the annualised working hours system", says CGT union rep Roland Mainpin.

Elsewhere, some firms have cashed in on what the scheme allows – especially non-payment of overtime (there being no requirement to set maximum hours after which overtime starts) – to apply it to employees it was not originally intended for, dangling the carrot of promotion. In 2002, the Decathlon sporting goods chain got its department heads – then classed as supervisors – to sign a contract amendment turning them into non-office-based managers on AWDS (agreement signed by two unions). "There was a brief period of euphoria", recalls the Toulouse CFE-CGC union rep Fabien Gautier, "when we were supposed to be getting more autonomy and responsibility out of it; it was held out as the only way to get career advancement...". Another example in a bank: "When we went over to the 35-hour week, promotions followed in droves; three quarters of the staff found themselves on AWDS! It’s basically a way to avoid paying overtime", says CFE-CGC union rep Ida Magneron.

"You keep going until it’s done"

Today, 12% of full-time employees are on AWDS. A Ugict-CGT survey on how managers feel about their work² show that they remain strongly attached to the work-time reduction days off system (69%), despite struggling to take them (25%) and finding it hard to keep on top of the pace of work and long hours (54%). "This ‘advance’ has opened the door to abuse. Without controls, people can be doing up to 13 hours a day with no grounds for complaint, whereas before there was a psychological barrier and overtime could be negotiated", says CFE-CGC National Secretary Bernard Salengro.

So, is AWDS just a trap? "Department heads’ excessive workloads regularly get flagged up to management. Since 2002, they have been working steadily longer days", notes Fabien Gautier. Decathlon’s "house rules" recommend that they be there at opening and closing times, key points in the day

1. Named after the then Socialist Minister of Employment, Martine Aubry.
2. Confédération française de l’encadrement – Confédération générale des cadres — managerial and supervisory staff union.
3. UAWS.

"It’s basically a way to avoid paying overtime."
5. Shop sales figures are reviewed daily at various times. Other required presence times include "money time" between 5 pm and 8 pm when department heads have to be on-site to give leadership to their sales teams and ensure optimum customer service, or team meal breaks between noon and 2 pm.

(deliveries, sales figure reviews, etc.) and for the various activities: moving, stock-taking, preparation of marketing exercises, etc., before and after business hours. Days of 8 am to midnight are not uncommon. There is no set work day, so you go on until you're done. And you can't really do a four-hour day to make up for it. We average over 50 hours but get paid less than the hourly minimum wage". The problem is the workload: the company’s total selling space is growing, but employee numbers are shrinking. "The social balance sheets show nearly 900 jobs lost in three years", says the union rep.

Working time, workload and work intensification are all bound up. "You do 10 to 12 hours a day as a senior manager, near enough 10 as a department head, not counting work taken home... The 15 RTT off days and the flexibility of AWDS are a safety valve you need to unwind, take care of personal stuff, or work at home without distractions...", says a senior tax official. His big concern is the stresses of his job, the results-based management culture and the public service accountability of civil servants, all against a backdrop of downsizing.

"We’re constantly pulled in opposite directions every day: we have discretion and relative free agency, but an imposed workload that has risen over ten years and numerous constraints", says Martine Flacher, CFDT Cadres national secretary with the public service portfolio. It’s hard to work the odd shorter day – and anyway, "it’s not done" – and use up all their work-time reduction days off. Building up the "working time accounts" as some do to take early retirement also creates problems with workforce management.

Nor is it easy to put the autonomy to best use, even when not totally swamped with work. "Projects are increasingly under time and cost pressures. Everything always has to be done at a rush. You can almost never take even a day off to compensate", says Roland Mainpin, who calculates he does about a 45-hour week, with 15 RTT off days. Pressures and workload make themselves felt at LFoundry, too – contacts with customers and production staff, morning and even evening meetings. "People get their job done as best they can in the time they have", says Patrick Chini. AWDS is strictly controlled there in terms of working time, with compensation for night and weekend work, and a time registration system and annual report for managers’ working time – in 2010-2011, they averaged 42½ hours, with 13% working over 46 hours.

But AWDS seems to suit some kinds of job and firm down to the ground. People working for IT services companies, for example. "The system only has benefits for me", says a consultant. "I switch between really busy days in the field and slower days. And I have 10 RTT off days to recharge my batteries. That makes for an OK balance, but then also the work is interesting and the firm has it down to a fine art", says one consultant who did not want to be named. André Bryssine, now a freelance consultant, also finds AWDS well-suited to his job, although he did clash with his previous employer over his time management. "I had no set working hours and worked unsupervised on assignments so I put down my actual time worked and took time off for overtime, but the boss was only happy about people working more, not less". The grounds for sacking this staff representative included: late timesheets, unclear time allocations, and unjustified absences.

Management works the competition angle

The regulation is based on a delicate balancing act. Elsewhere, at Schneider Automation in Sophia Antipolis (800 employees, 60% of them engineers and managerial staff, half..."You feel you’re constantly playing catch-up, constantly firefighting."
working in R&D), before its recent move to Carros (Alpes-Maritimes) "there was real flexibility", says CGT central official Antoine Marchese. "People organized their time according to their work and personal obligations and were able to do things during the lunch break, even if it meant finishing a report at home. It isn’t the time as such that’s a problem. It’s how it links into other factors, like working conditions and the feeling of having free agency. Since moving to a remote site which means longer travelling times and some having to take a works shuttle, attitudes have changed: employees are more fixated on their jobs, organization is less flexible and interaction has gone down".

Environment, workload, pressure... It isn’t easy to order individual working times independently. It all comes down to self-organization: conscientiously setting one’s own priorities while juggling multiple constraints.

"You feel you’re constantly playing catch-up, constantly firefighting. And you feel guilty. At the same time, you want to stay interested in your work, to get it done properly within time and budget, and get recognition. Management plays on our professional conscience", says Roland Mainpin. Behind which looms the pressure of performance assessments. "It’s hard for people to admit that they’re running behind: it’s seen as a sign of poor organization or incompetence", says Ida Magneron. And that means a black mark, but also the risk of being given less interesting projects later, especially for engineers, who tend to the individualistic not to say competitive. And when management plays on that competition, the abuses become clear: "There are no safeguards any more; what there is, is a sort of unhealthy competition: the biggest workhorse wins. You can see in the minutes of works council meetings examples of department heads who have put in twenty-hour days or eighty-hour weeks", says Fabien Gautier.

Work conditions like that cannot fail to affect personal organization and health. "The poor absenteeism and turnover indicators are regularly flagged to management", says the Decathlon union steward. "People are keyed-up all the time, and that creates a lot of unease: stress and difficulties balancing work and private life. Working at home eats into home life, holidays have to fit in with work duties, you only get to eat with the family at weekends. There are really busy periods that need every ounce of energy to get through; sometimes you need medication to help", says Martine Flacher. "Managers are holding up at the moment, but they are all stressed and on the edge. There are breaking points", emphasises the other tax official. "There are more outbursts in project teams, people at the end of their tether, who are on sick leave, or on tranquillisers. But it’s hard to say how many because people are unwilling to admit that they can’t hack it any more. They are all convinced that owning up will get them singled out as a weak link", says Roland Mainpin.

The courts step in

Feelings of not being in control and stressed out: with no fixed bounds, there’s always a bit more that can be fitted in. And time can be made up by taking work home, especially where papers are to be read or reports written. This has always been the case, but it is certainly made easier by computers and mobile technologies which blur if not erase the dividing line between work and private life times. "People can go into blind panic mode and try to offset stress by working too much, which adds to the stress", notes Stéphane Lovisa, General Secretary of CGT’s metal industry engineering, managerial and technical staff federation. "With a different system of calculating time than AWDS, management would pay more heed".

Managers’ inability to assess their staff’s workload was specifically singled out in court verdicts on suicides (see Box). The courts have also ruled on abuses of AWDS. On 29 June 2011, France’s Supreme Court of Appeal held that an employer must ensure that working time is “reasonable” with regard to the protection of employees’ health. Upholding a manager’s claim for overtime pay, it found that his employer had failed to keep a check on the number of days worked and to keep the workload under review as required by the metallurgical industry agreement. In practice, control of AWDS varies with the agreement: the most stringent set maxima of 10 hours a day and 48 hours a week, have a clear view of working time and set compensation time for overtime work (LFoundry), while the least rigorous simply refer to the 11 hours’ daily rest requirement set by the Labour Code. The personal interview to review work load and organization is in
most cases included in the annual evaluation interview. Suffice to say that it gets glossed over compared to the review of the employee’s objectives and performance evaluation. “It’s barely touched on; working time is not up for discussion”, notes the senior tax official. Nor is it easy to raise difficulties in coping with one’s workload as part of the personal assessment.

Some firms let employees go back to the old working hours system, but those who want to are quickly deterred by “the fear of showing themselves up and losing an interesting activity”, says Roland Mainpin. “Job, pay, working time, freedom, working conditions: they’re all part of the equation. But when people are isolated and forced into competition, that’s another story. In my firm, messing with the AWDS would spark a revolution”, says Antoine Marchese. But where it isn’t wanted, it can always be challenged using the Supreme Court judgment – which is what several Decathlon employees have done in individual lawsuits.

It is less the principle of the annual working days system that the main trade unions are challenging than the abuses it leads to. Some have taken it to the European Committee of Social Rights which in its recent decision of 10 June 2010 found it to be in violation of the European Charter of Social Rights – for all the good it did. The unions are variously arguing for a more rigorous control of AWDS via, among other things, checks on hours worked, a benchmark weekly average time, guaranteed time off, and a redefinition of eligible job categories, backed up by the prospect of renegotiating collective agreements encouraged by the case law.

"There’s a kind of unhealthy competition: the biggest workhorse wins."

Assessing the workload in question

In its verdict of 19 May 2011 on the suicide of Antonio B., a 39 year old engineer who had jumped from the third floor of the main building of the Renault Technocentre in Guyancourt (Yvelines), the Versailles court found that the company must have been aware of the risk that this employee was exposed to from his workload and had taken no steps to protect him from it.

In her evidence to the court, his wife said that “he was showing clear signs of extreme anguish” several months before ending it all, that he was “working almost non-stop” and had “no time away from duties over a long period”: twelve hour days plus working hard at home in the evenings and at weekends. The court inveighed against “(line managers’) complete inability to be able to say what precise volume of work was performed by this employee in respect of all his duties”, “the absence of any company provision for evaluating workload”, “managers’ failure to have a view of their employees’ workload”.

Further reading

“Comment réglementer le temps de travail des cadres ?”, Revue de droit du travail, No. 9, September 2011.
Shopping mall working conditions: social dialogue stalled

The local site union of the Part-Dieu Oxygène shopping centre in Lyons (Rhône-Alpes, France) has for years been pressing centre management to engage a social dialogue on working conditions. So far, neither outlet management nor mall management seem inclined to commit to talks. In such an impasse with no legal compulsion to get talks going, how do you create an opportunity for social dialogue to tackle working conditions that affect everyone employed in the centre?

Stéphanie Husson, Guillaume Martin
Emergences, training and consultancy firm, France
"We work in a shopping centre, but we feel utterly alone", sighs a fashion boutique sales assistant. This is the paradox of one of Europe’s biggest city centre shopping malls: 260 shops, 2,000 employees, a daily footfall of over 100,000 people, but staff feeling isolated amid the noise of fountains and crowds, mutely enduring grinding working conditions. Mutely because there is no social dialogue: outlet and shopping centre managers are playing pass-the-parcel to avoid having to tackle problems that affect all outlets and all staff.

A shopping centre contains a wide range of retail outlets varying by size, goods sold, types of organization and legal status. But its infrastructure, services and geographical location still make it a common workplace where employees share the same advantages and disadvantages, or, as union branch secretary Marie-Hélène Thomet puts it, "staff have the same problems".

Some outlets do have employee representation bodies – mainly health, safety and working conditions committees (HSCs) – but not many: 70% have fewer than 11 employees and only eight have a local or national HSC. Few they may be, but they are full and proper social dialogue bodies. But their remit does not extend to problems common to the site which legally-speaking are not the company’s responsibility. So there is no body in which to discuss these problems and even less opportunity for social dialogue to try and resolve them. This is common to all shopping centres. But a local site union at the Part-Dieu Oxygen shopping centre is trying to change that.

In 2008, the CGT central labour body decided to form a local site union which was joined by all CGT union branches operating in the shopping centre units. This union then became a negotiator for the entire site. The body "enables us to work together and leverage union activities, go into the smaller outlets to talk about issues and organize", explains Sébastien Antérion, a CGT elected rep on a supermarket works council and site union treasurer. Going out to talk to employees, note down their complaints, inform them about the law, give legal advice, support a strike are all things the site union does to meet a real demand from employees: "We have good acceptance and recognition. A lot of the smaller outlet managers are with us", says the union rep. Working conditions in the shopping centre are not the best, but the staff are isolated and seldom have chance to talk about them.

Demanding, time-constrained customers make continual calls on staff whose jobs are increasingly formulaic and increasingly less fulfilling.

Mental strain, time and business pressures

The CGT instigated a study on working conditions both to highlight the stresses specific to the shopping centre and get employees’ voices heard. It was funded by the State and the Regional Council to promote social dialogue. All trade unions, employers’ representatives, government services, the Rhône-Alpes Agency for the promotion of social innovation and improvement of working conditions, etc., were invited to take part in the groundwork meetings for the study.

The study on working conditions in shopping centres was done in 2010 by specialised consultants based on a qualitative survey and an employee questionnaire. 2200 questionnaires were given out and 672 employees responded. A summary entitled Working in a shopping centre was published.

The study bore out the unions’ findings. The already grinding conditions of retail sales – prolonged standing, constant walking, awkward postures, repetitive movements – are compounded by other factors of physical and mental hardship specific to shopping centres.

A lack of natural light, fountain noise and piano muzak add to the hubbub of the crowds: "Yes, the girls talk about the noise and light, that’s a recurring complaint, but it’s mainly the crowd noise. We’re the biggest shop so it’s pandemonium here: kids screaming, customers streaming through, muzak and at Christmas-time there’s an in-store promoter rabbling on, and that about caps it", says a supermarket checkout operator.

Relations to customers are different. "People use the centre as a throughway, we see them with suitcases... people just going through, not coming specifically to buy things", says one assistant store manager. Close to the train station and city library, surrounded by business and government offices, it is a heavily-used transit point. "It just sucks people in, really, in the sense that if people don’t know where to go, or if it’s cold out, they come in and hang around; if they’re at a loose end, they mooch around here, and those of us who work here have to put up with it...", says a department store checkout assistant. Relations with customers are changed by being in a self-contained shopping mall which is at once a thoroughfare and a mega fast-food/snack destination: "People react differently to in town. You say hello and they back off. You let it go and after a bit you get used to it, but the centre stays with you", says the assistant shop manager.
These situations reveal mental stressors from time pressure (working to tight deadlines with limited resources) and commercial pressure (exceeding sales targets). Demanding, time-constrained customers make continual calls on staff whose jobs are increasingly formulaic and increasingly less fulfilling. The job of informing and advising customers is declining under the imperative of making the sale. Adding to these stressors are a lack of recognition and sometimes management failings. But employees who are unable to do what they feel to be a good job and feel that the mismatch between the work they have to do and the conditions that stop them doing it make it pointless, are in a plight that can only be bad for their mental health.

There are virtually no facilities for employees to congregate and socialize. Only the big shops have places to eat or take a break. There are corridors, back rooms, store-rooms... "Sometimes I go to the library, but it can be quite busy, so I go somewhere else, anywhere I can find. You don't really relax. You're always getting somebody cadging a smoke or something", says a fashion boutique sales assistant. Some workers eat outside in all weathers. Others, especially those working on alleyway selling pitches, have no individual toilets and have to pay like customers, or hide behind their counters and improvise. Shopping centres are confined spaces with nooks and crannies that can be unsafe. Insecurity is a constant problem, with employees and customers facing verbal and sometimes physical violence. "One sales assistant in a designer clothes shop said she had been held up by one youth with a pellet gun while another went on a 'shopping spree'", says site union secretary Marie-Hélène Thomet. Several places have been robbed of their day's takings: "There's no secure system for banking the takings. It isn't a problem for the big stores that have their own funds transport services. But for the small shops, it's the staff who run the daily risk of taking the cash along the alleyways to the bank", adds the union rep. To top it all, part of the ceiling has fallen in, although fortunately no-one was injured.

While retailers and centre management were asked to give input to the study on working conditions, they never really got involved. "It is a shame that employers and management who pressed to be kept informed never came, took any interest in or had anything to do with this progress report", noted Christophe Rigolet of the CGT Rhône-Alpes Regional Committee at the February 2011 unveiling of the study. The Regional Council, State officials, labour inspectorate and trade unions were all at the reporting meeting, but not employers nor centre management. And therein lies the problem: there is no negotiator with whom to get social dialogue going, notwithstanding the general consensus after the presentation on the need for social dialogue and to take the work forward.

**Job insecurity, pressure, isolation, and rapid turnover stop the staff who are enduring these grinding working conditions from driving the dialogue process.**

**The costs of no social dialogue**

In addition to the trade union action and following on from the working conditions study, the Emergences consulting firm is working with the site union and support from the Regional Council to create the conditions for social dialogue. The study on working conditions and recent incidents (assaults, hold-ups, hygiene issues, etc.) show that both employers and managers would benefit from engaging a social dialogue to improve work conditions and increase the shopping centre's appeal to customers. But neither shop owners nor centre management seem to make the link between falling customer numbers, employees' worsening work conditions, and the shopping centre's image.

Getting engagement with a constructive approach means identifying shared concerns which show that not having a social dialogue comes at a cost to the shops. Emergences therefore suggested that the site union should
work on two issues: security and employee turnover. For employees, they are the source of huge work-related upset. For shop owners, they represent a financial cost and tarnish the centre's image and appeal. Two analyses will be done of the causes and the economic and social costs, and to identify courses of action, informed by surveys of employees, customers, retailers and stakeholders. The idea is for them to be a basis for discussion to prompt action by not only shopping centre but also local/regional government stakeholders.

For example, one of the site union's last pamphlets warned of hygiene issues with some of the food outlets. The employees' first job in the morning was to scrape the rat dropping off the work surfaces. Transferring responsibility for rodent control from the shopping centre to the retail outlets has seen a rise in rodent infestation of kitchens. This is an issue for the centre, outlets, staff, customers and government agencies alike.

Where staff turnover is concerned, one possibility might be to get the Regional Council involved through some of its schemes that fund locally-based training and training organizations to promote secure career paths or consider pooling human services resources for smaller outlets.

Job insecurity, pressure, isolation, and rapid turnover stop the staff who are enduring these grinding working conditions from driving the dialogue process. Such a hermetically-sealed environment where employees are isolated and under considerable pressure from employers makes organized discussion opportunities essential. Lyon II University will set up a staff discussion group and take down what they have to say about security and turnover. The issue of inter-union work will also arise, although the CGT is the only union to have set up a branch for the shopping centre as a whole rather than just each individual outlet.

Local/regional authorities — regional council, city council, employment and training centre, politicians, government agencies — are also alive to the issues raised. They are involved in the centre's activities: the city council specifies area development and manages the parking provision (which staff have to use and pay the same rate as customers), the Lyons employment and training centre supports recruitment for shopping centres, the Regional Council can fund training, government agencies act on health and safety. The idea will be to leverage their powers to create opportunities for dialogue between the site union and centre management.

**Many avenues open to localized social dialogue**

A localized area is a composite assemblage of diffuse places where issues that engage employees and employers can be most effectively tackled. It may be a labour market area, a chemicals complex comprising a customer and its subcontractors, an industrial area or as here a shopping centre comprised of several hundred retail outlets. Being locally-based, the area social dialogue can link working conditions and employment issues with social and economic issues. What it does is to engage the social partners and local stakeholders who are on top of local conditions and are best able to deliver appropriate responses. What this approach also has going for it is to include small and medium-sized firms that often have no union branch and are therefore by and large excluded from the traditional forms of social dialogue.

This is in effect a relatively new method of governance in French-style labour relations in which a new method has to be learned, a balance struck between policy and technique (implementation), and each stakeholder has to overcome its own organizational constraints without necessarily forsaking its principles. As with any social dialogue, real difficulties and sometimes failures abound. But that should not detract from the value of the approach.

Other shopping centres have taken a different tack. In Marseilles, for example, the Regional Department for consumer affairs, competition, labour and employment which represents the state in the Provence-Alpes Côte d'Azur region wanted the fitting-out of the future Terrasses du Port shopping centre premises, and working conditions generally, discussed before the first shovel of earth was turned.

This meant getting not just local employers' organizations and trade unions but also the developer/operator of the future shopping centre actively involved by playing up the positive impact that such an approach could deliver, not least for its reputation and image.

But the centre's developer and shop owners remained unconvinced, even despite the signing of a common position by the trade unions. There is a sense that the jobs to be generated by the new centre swayed the decision not to go forward with an approach that would have aimed to pre-empt the problems that those employees would face sooner or later. And this is a roadblock in localized social dialogue. You cannot force it to happen. With no framework of compulsion, it depends on the willingness and engagement of those concerned.

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Being locally-based, the area social dialogue can link working conditions and employment issues with social and economic issues.
ArcelorMittal global HSC zeroes in on work accidents

Four years ago, steelmaker ArcelorMittal set up a health and safety committee for the entire group worldwide. Its main aim was to cut the accident toll in the 60 countries where it operates. *HesaMag* got an initial assessment from a workers’ rep on the committee.

Regine Suling
Journalist
30 dead. That accident made company bosses
26 ArcelorMittal employees or subcontract
2008 put that ambitious goal into action by
Health and Safety Committee (JGHSC).
workers died in accidents across the world
in 2011. While that is clearly still 26 deaths
too many, it is certainly many fewer than in
previous years. In 2008, a single accident in
the group’s Kazakhstan mines left more than
30 dead. That accident made company bosses
realise how big an issue worker safety is for
the company, and has led to a big focus on
health and safety in the group. An agreement
between management and unions on 3 June
2008 put that ambitious goal into action by
spelling out the terms of a close collaboration
between the company and unions. Out of that
agreement came ArcelorMittal’s Joint Global
Health and Safety Committee (JGHSC).

This safety-mindedness is no newcomer to the steel group’s European plants: “We
have been running action programmes to improve workplace safety in Bremen using in-
house and outside experts for 15 years now”, explains Michael Breidbach. “We recently set
going a project with Professor Hans-Peter
Musahl of Duisburg-Essen University to see
what workplace risks might be overrated or
underrated”. Somewhat counter-intuitively, it
found that most risks are in places where they
might be least expected, like stairs and
corridors.

Projects like these have given Bremen a
relatively low accident rate compared to other sites. The steelmaker wants to push this trend
out worldwide. The frequency and severity of
accidents, along with accident-related down-
times, at group sites are carefully logged and
then mulled over by top management. Part of
the Global Committee’s remit is to make it
easier to compare these data.

**Villa Constitución, model city**

Since 2008, JGHSC members have globe-
trotted widely, visiting ArcelorMittal sites
across the world, inspecting site working and
safety conditions, and supporting the crea-
tion of local committees. Michael Breidbach
says they have found wide variations, and
that local unions are not always in the same
strong position as in Western Europe. In
Ukraine, the JGHSC first set up union train-
ing to bring colleagues up to speed on topics
like risk audits, assessments and prevention.
These are key details that union representa-
tives must be on top of because “they sit with
management in local joint committees”, says
Michael Breidbach. The JGHSC’s verdict on
the Kryvyi Rih site in Ukraine was that safety
standards urgently needed bringing up to
date. That ranged from banning the use of
mobile phones while driving inside the fac-
tory through floor markings to identify walk-
days in workshops to wearing harnesses for
work at heights.

But the Joint Global Health and Safety
Committee is not just about laying down
rules. “We regularly go out to the different
sites”, says Michael Breidbach, “where we
meet with colleagues on local committees,
keep a check on progress, make suggestions,
discuss their problems and ensure that they
are getting treated as equals”. This is not
always the case - in Brazil, for example, the
unions have little clout and many firms
do not even have unions. The difficulty
in Kazakhstan lies elsewhere, as Michael
Breidbach relates: “In the past, the unions’
job was not to improve living and working
conditions, but to run workers’ holiday
centres”. More than twenty years since the
Soviet Union collapsed, the situation is
slow to change. Michael Breidbach does not
think it possible yet to talk of new unions as
the old ways are still entrenched. But he is
confident that things are on the move. The
unions are constantly expanding their ar-
eas of action, like ensuring that colleagues
have a rest room to go to instead of taking
their breaks sitting on wooden crates or
drinking their coffee in work areas. From
what Michael Breidbach has seen, the new
powers are gradually easing the unions into
their new role.

He and his colleagues see the Acindar site at Villa Constitución in Argentina as ex-
emplary. The two unions and management are
working together well in the local committee
in a way that the JGHSC report describes as
having become a benchmark for other busi-
nesses in Latin America. It’s an example fol-
lowed not only inside but also outside the com-
pany: “The local unions were pretty pleased to
see the Santa Fe regional government follow-
ing suit after the creation of a local committee
at ArcelorMittal Acindar and adopting similar
measures for other companies”. This goes to
show what union health and safety reps have
long known: “without union representation,
there’s no such thing as a safe workplace”.

The tour of Vanderbijlpark in South
Africa showed that safety was not just about the
260,000 company employees, but also those
employed by outside firms. 40% of the
workers are employed by outside contractors
and often don’t have the personal protective
equipment that is compulsory for all Arce-
lorMittal workers. The same failings were
found on a visit to Mexico. “Outside contrac-
tors’ employees were scavenging ArcelorMit-
tal workers’ cast-off protective clothing from
the bins to work in”, says Michael Breidbach.
Personal protective equipment must be worn
by all workers, whether employed by Arcelor-
Mittal or an outside subcontractor. The site
“Outside contractors’ employees were scavenging ArcelorMittal workers’ cast-off protective clothing from the bins to work in.”

inspections show that this requirement is not always met. The JGHSC report is categorical: "This undermines the credibility of the management’s safety approach". The JGHSC's suggestion is to establish uniform standards and apply best practice.

Meanwhile, Michael Breidbach and his colleagues are providing practical assistance at the workface. Experts from the Bremen site in northern Germany are sent out to Kazakhstan and Bosnia-Herzegovina to train colleagues on-site. "They have performance indicators and a desire to have our know-how transferred". The declining accident figures show that the commitment is paying off. "Engaging with it pays dividends", notes Michael Breidbach. Serious accidents remain an ever-present threat in this type of activity, as shown in the Kazakhstan disaster in one of the group's score of coal and ore mines. "Even up to a few years back, this sector was responsible for most of the accidents". Since then, the accident figures have fallen sharply. Michael Breidbach pays tribute to his colleagues' work: "What they have managed to do is something that deserves our respect".

"The Golden Rules"

While the creation of the JGHSC was undoubtedly a milestone, all is not yet sweetness and light in the unions' view. One recurring problem is compliance with the ten "Golden Rules". These lay down the safety rules for the group, are published in several languages and are available for reading in every factory. They specify the different risks and the right behaviour to adopt: "I will respect all the traffic rules", or again "I will respect all the rules on load handling at all times and never stand under a suspended load". But what of employees and managers who flout these rules? What kind of penalties can be handed out? These are questions to which no satisfactory answers have yet been found.

The unions also take issue with senior management's failure to engage fully with the JGHSC in face of a recent management statement that "There is no disagreement that the main responsibility for a safe workplace lies with management". But opinions are divided on how to deal with faults and breaches of the rules – management favouring individual disciplinary action, while the union reps argue for educating their colleagues in safe working practices. The unions believe the best way is to involve the workers who actually do the job at the workface. Supervisory staff and employees therefore need to work actively together to avoid any risk behaviour. The unions affirm that, "Every worker has the obligation to follow the rules (...). We agree that discipline may be necessary in cases of wilful defiance and outright recklessness, in which employees can endanger themselves and/or colleagues". But no sanction should be applied until all the circumstances have been considered – and that clearly does not always happen. So, in a June 2011 report, the union reps on the JGHSC stress the possible harm that can result from a prevention policy focused on discipline, illustrated by an incident at the Indiana Harbor (Chicago) site, where workers were handed 5-day suspensions for voluntarily reporting a near-miss accident and suggesting to management steps to prevent a reoccurrence.

For every agreement there is disagreement at ArcelorMittal. But both sides seem happy with the positive examples that illustrate the shared commitment to improved safety. The medium and long term health impacts of workers' exposure to risks like toxic fumes and dust is not so far on the JGHSC’s agenda. Its aim lies elsewhere: the priority is to prevent future work accidents, especially fatal ones. A JGHSC delegation visiting the Indiana Harbor and Burns Harbor sites in the USA in April 2010 took part in the Union Workers' Day Remembrance – a commemoration of all those who have lost their lives at work. The names of all the workers who have lost their lives at work at the Indiana Harbor site since 1903 are engraved in granite on the wall of the local union hall. JGHSC members read there the names of 389 people. Together they pledged to fight for one aim: "Our goal is to never add another name".
unions were voicing misgivings. Just months ahead of a merger it would be unable to stop, EMF said it would not countenance Arcelor being “sacrificed for the benefit of some speculators”. That foreboding is now coming true. Many commentators – and not just trade union observers – believe that under the guise of the crisis and declining demand for steel in the motor manufacture and construction industries, the family patriarch, Lakshmi Mittal, is rolling out a long-standing strategic restructuring plan to create competition between his European plants and keep some units idle in order to create a market shortage of steel to keep prices high. “Since the crisis began, management has ordained that for the years ahead anything over 75% of a facility's capacity utilization counts as overuse relative to average production. And it has decided for all its European sites that the extra work will be handled by agency workers”, says Philippe Verbeke, CGT national coordinator for ArcelorMittal. “There isn't much that can be done about it, not least because management are using transfers between jobs and sites to cancel agency workers' contracts and set them on again elsewhere so as to exploit the maximum 18 months' temping for an agency worker”, says the union official. The steelmaker is employing large numbers of agency workers at some sites to fulfil customer orders while 2,500 employees at the Florange (Lorraine) blast furnaces have been kept on short time for months. The EMF also believes that the Mittal family plans to reduce its investment in the European steel industry to finance acquisitions in mining and factories outside Europe. Following the merger with Arcelor, Mittal increased its investments in iron and coal mines around the world. In 2010, the group officially established a "mining division" which Le Monde reports contributed 52% of group earnings for 6.6% of sales in 2011. With part of the iron ore market now in its hands, Mittal feels free to sell it to its European facilities at market price, i.e., "top dollar" as the Syndex consultancy reported in early March to the European Works Council. The group's mastery of the art of "job blackmail" – not to mention its astuteness in tax matters also raises issues of business ethics. In Belgium, Lakshmi Mittal made the restarting of a blast furnace in the Liège region of eastern Belgium in 2008 dependent on the authorities granting him CO2 allowances. This added a bit more to the stock of CO2 credits stored up by Mr Mittal in recent years. Reselling them earned him an extra 70 million euros in the 2011 financial year revealed the Belgian press in February 2012, four months after he announced the permanent shut-down of the hot phase site in Liège ...

* Mittal: Digging a grave for one of the flagships of the European steel sector?, EMF press release, 7 March 2012
Ever since the 1970s, US governments have been rolling out free market policies and workfare programmes* in a smorgasbord of forms and schemes, all of which have consistently sought to de-entitle social welfare claimants by making them an available pool of biddable, very low-paid labour. Are the “day labor agencies” the most distasteful means of running workfare programs in the labor market?

It is this question that French sociologist Sébastien Chauvin sets out to answer. For two years he immersed himself in the life of American day labourers in the Chicago area (Illinois) as a casual worker in light industry plants.

From this side of the Pond, day labour agencies look not much different to Europe’s temp agencies. In fact, they are nothing like, as they offer essentially unskilled work in light industry to marginalised groups: the black underclass (often ex-convicts) and undocumented immigrants (mostly Hispanic).

The way these agencies and their customer firms operate offers an intriguing glimpse into the low-grade jobs and disempowerment they bring about.

Heads they win: the day labour agencies. What jumps out from the pages of Sébastien Chauvin’s book is the murky selection procedures they use for day labour hire: job-seekers fill in application forms that are neither looked at nor discussed with an agency official; their work skills and experience are disregarded in favour of innate characteristics, i.e., abilities assumed on the basis of gender, age, racial and other stereotypes. Also, agencies do not recruit applicants for specific jobs but operate a collective ticket system for hiring a random, arbitrarily-chosen number of workers who are at the absolute paternalistic whim of the dispatchers in charge of allocating them to customer firms after kicking their heels sometimes for up to several days in agency dispatching rooms. This unpaid but enforced waiting time tells dispatchers whether a day labourer can wait patiently, keep their dignity, and be a regular attender – all evidencing a genuine will to work.

The way day labourers see it, getting to share in a ticket is also viewed as a favour, since many are called but few are chosen, and the agencies will take on workers regarded as unemployable by others. This makes them feel beholden to the dispatcher for the privilege of getting work, despite knowing full well how they are being exploited!

Day labour agencies also act as a form of insurance by relieving customer firms of the responsibility for employing illegal immigrants or ex-convicts, since it is their job to check the civil status documents of hires, including their social security card (mostly fake) or the criminal records of ex-offenders. In the shakiest of labour market positions, day labourers willingly connive in the agencies’ and dispatchers’ non-transparent selection and hiring procedures which let them bypass customer firms’ HR departments which would never directly hire ex-convicts or undocumented migrants.

Tails you lose: Who are the customer firms? Mostly subcontractors for the assembly and packaging of finished products. For them, this is a source of casual labour hirable at a minimum hourly wage and fireable almost daily depending on production needs. Day labourers clearly have none of the social benefit entitlements (pension plans, paid holidays, medical insurance, seniority-based raises) enjoyed by those with a proper employment contract. At the same time, the long-awaited day job is devoid of meaning as day labourers normally know neither the name of the firm they will be working for, nor what their job there will be, nor how long it will last. Once on the factory floor, their status is no less marginal: they have no access to locker rooms or canteens, are supplied with no work clothing or personal protective equipment (gloves, helmets, masks). They may even be turned away at the factory gate if the agency has sent too many workers. At work, they are subject to degrading forms of multi-tasking and orders to always be busy even if there is nothing to do (no sitting, no talking to other team members even if the production line is slow, no idle hands).

The author has done a remarkable front-line investigation to produce a general analysis of workfare and job insecurity as an employment relationship.

— Marianne de Troyer

Les agences de la précarité. Journaliers à Chicago
by Sébastien Chauvin,

* A merger of work and welfare – a welfare programme in which recipients are required to perform work as a condition of receiving benefit.
This is an out-of-the-ordinary study into social history. It describes working conditions and labour relations down two centuries worldwide along an entire production chain. The "devil's milk" of the title is rubber. With exhaustive research and literary skill, the author drives his narrative forward with the noise and power of a surfer confidently navigating the rolling waves and slipstreams of history.

Rubber first appeared in Europe in the slipstream of New World products that followed the conquest of America. Known and used by pre-Columbian civilizations, it was long confined to the cabinet of colonial curiosities. Obstacles to its use abounded: it was sticky, malodorous, and turned brittle when old or cold. It found the odd market, but nothing to speak of. The big breakthrough came with the invention of vulcanization in 1839 by the young chemist Charles Goodyear. Sulphur and other substances added to natural rubber give it a robust elasticity. Within thirty years, applications proliferated: industrial equipment, construction materials, insulation for the telegraph cables that would soon connect the five continents, and more. By the late 19th century, rubber had become a vital part of many manufactures.

This stage in the history of rubber brought two production systems into contact. Harvesting takes place in primitive conditions in tropical forests, mainly in the Amazon basin. Industrial uses proliferated in the U.S.A. and Europe as modern technological inventions and new goods were developed for mass consumption. But one thing connects those who collect latex in near slavery conditions and the hundreds of thousands of workers in modern factories where rubber is processed: inhuman working conditions. In tropical forests, dreadful exploitation decimated the ranks of producers while jungle towns like Manaus in Brazil and Iquitos in Peru prospered on the industry's back with a showy but fleeting wealth. In the modern factories, wages are low and death rates from exposures to chemicals high. At the turn of the century, new rubber plantations appeared in Africa (mainly in the Congo Free State) and East Asia, followed by the first condemnations. The British diplomat Roger Casement inveighed against the hellish plantations of the Congo and Peru. Labour unrest also erupted in places where capital concentrated its workforce. The author recounts the mass strike of workers in BF Goodrich's Akron (Ohio) tyre factory in 1913 and the activist role played by Chinese rubber plantation labourers — the coolies — in the development of the communist movement in Indochina and Malaysia.

The looming Second World War precipitated the development of new technologies for the production of synthetic rubber, with the U.S. and Germany at the forefront of developments. A cartel was created between Standard Oil and IG Farben. The German group stepped up war preparations. Closely associated with Nazism even before Hitler's rise to power, it invested in a new production facility attached to the Auschwitz concentration camp: Monowitz — run with slave labour supplied by the Nazi state. Working conditions in the factory have been described by one of the few survivors, Primo Levi, in his work of witness If This Is a Man.

He races through the post-war history. The Nuremberg Tribunal showed immense leniency towards the Auschwitz plant managers, the main one of whom — Otto Ambros — had by 1950 become a leading figure of the West German chemical industry. On his death in 1990, BASF paid tribute to him in an obituary as "[a]n expressive entrepreneurial figure of great charisma".

At Soviet behest, the huge East German plant at Leuna was seized and placed under state control with no real improvement in working conditions. The workers took an active part in the 1953 uprising against Stalinist leader Walter Ulbricht's regime.

In an interview, John Tully disagreed with British historian Thomas Carlyle's dictum that, "History is but the biography of great men", and this book makes his case! He has produced a fascinating tale whose central protagonist is the serried ranks of millions of workers, and a stimulating analysis of the inequalitarian way in which capitalism conspired to develop.

— Laurent Vogel


To learn more, read the interview with John Tully on the publisher's website: http://monthlyreview.org/press/interviews/interview-with-john-tully

Mario Vargas Llosa's latest novel, The Dream of the Celt, is dedicated to Roger Casement and is a first-class literary complement to John Tully's study.
Working conditions in the supermarket sector

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