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Wei Cui

Allard School of Law at the University of British Columbia, cui@allard.ubc.ca

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Policy Forum: Non-Standard Employment and Canada's Initial Pandemic Response

Wei Cui*

PRÉCIS

Les travailleurs à la demande et leur classification potentiellement erronée en tant qu'entrepreneurs indépendants attirent beaucoup l'attention publique, mais il faut reconnaître que la flexibilité fait déjà largement partie du monde du travail traditionnel. L'effet de la pandémie de COVID-19 sur le marché du travail porte à croire que les employés atypiques pourraient être encore plus vulnérables que les travailleurs indépendants. Cet article soutient que l'assurance-emploi traditionnelle et les programmes connexes couvrent inadéquatement les employés flexibles, et que des politiques ciblant les marges intensives de l'emploi sont nécessaires pour aider les travailleurs précaires.

ABSTRACT

Despite public attention to gig workers and their potential mis-classification as independent contractors, much flexible work already takes place in the sphere of formal employment. The impact of the COVID-19 pandemic on the labour market suggests that non-standard employees may be even more vulnerable than the self-employed. This article suggests that traditional employment insurance and related programs inadequately serve flexible employees, and policies targeted at the intensive margins of employment are needed to help precarious workers.

KEYWORDS: EMPLOYMENT ■ WORK ■ FLEXIBLE ■ ASSISTANCE ■ POLICY

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* Of Allard School of Law, University of British Columbia (e-mail: cui@allard.ubc.ca). I am grateful to Frances Woolley, one of the editors of this journal, for excellent comments and discussion, to Robert Russo and Sarah Manshreck for discussions of flexible work in Canada, and to Marc-Antoine Gervais for excellent research assistance. Any errors remain my own.

INTRODUCTION

The phrase “flexible work” is apt to conjure up thoughts of Uber drivers, Task-Rabbit freelancers, Amazon Mechanical Turks, and other gig workers offering their services as independent contractors on digital platforms. For legal and tax professionals, discussions of the ascendance of flexible work in the digital economy thus promise to breathe new life into the well-worn legal distinction between employees and independent contractors. And for many members of the public, media reports in the last few years may seem to convey the message that if gig workers can be reclassified as employees—if, that is, a legal controversy can be resolved in a certain way—an important social objective, namely, better protecting precarious workers, will be advanced.

However, these assumptions are belied by evidence that much flexible work already takes place in the sphere of formal employment. Data from the Labour Force Survey¹ (LFS) show a long-term decline in the percentage of unincorporated (“own-account”) self-employed workers among all workers in Canada (that is, the sum of formal employees and the self-employed) (see figure 1). The share for unincorporated self-employed workers was 9 percent in 1990, peaked at 11.3 percent in 1998, but has stayed below 9 percent since 2011. Even in 2020, when the COVID-19 economic shock pushed many workers into this category, the unincorporated self-employed represented only 8.5 percent of all Canadian workers, just slightly above the average (8.4 percent) since 2011. In fact, the fastest-growing category of non-standard workers has been temporary employees (full-time or part-time): the proportion of such workers relative to all Canadian workers started at 9.4 percent in 1997 and reached a peak of 11.7 percent in 2017 (although it has since dropped back, to 10.9 percent in 2019 and to 9.8 percent during the 2020 economic contraction).

If we define “non-standard workers” as comprising the categories of the unincorporated self-employed (with or without paid help), temporary employees, and permanent part-time employees,² LFS data show that the proportion of non-standard workers relative to total workers in Canada has remained largely stable since 1997, peaking at 32.2 percent in 1998 and dropping to 29.8 percent in 2019. The most notable change has been the increasing share of employees (and the declining share of independent contractors) among non-standard workers: the former rose from 64.8 percent in 1998 to 73.4 percent in 2017 (see figure 2).

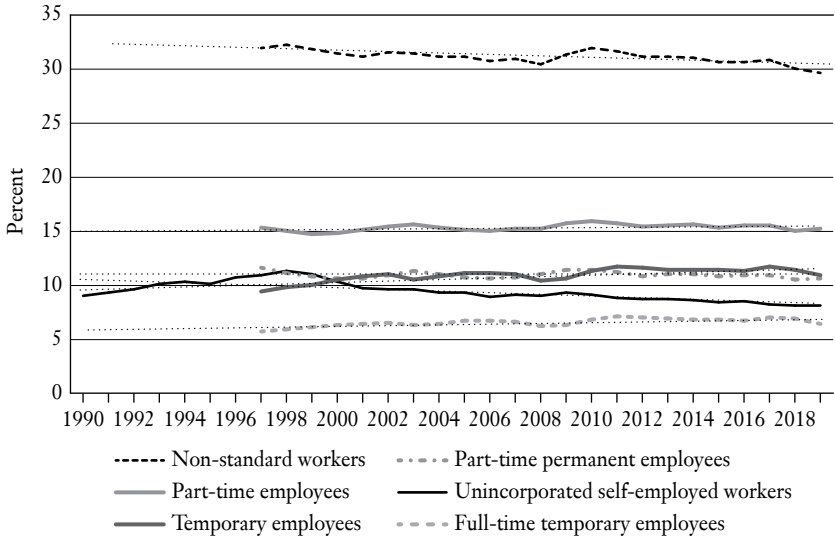
Analogous patterns have been found in the United States: the American population of contract workers who are formally employed has grown faster than the population of independent contractors.³ More troublingly, temporary employees in

1 Statistics Canada, table 14-10-0287-01, “Labour Force Characteristics, Monthly, Seasonally Adjusted and Trend-Cycle” (<https://doi.org/10.25318/1410028701-eng>).

2 An equivalent definition would sum up the unincorporated self-employed, full-time temporary employees, and part-time employees.

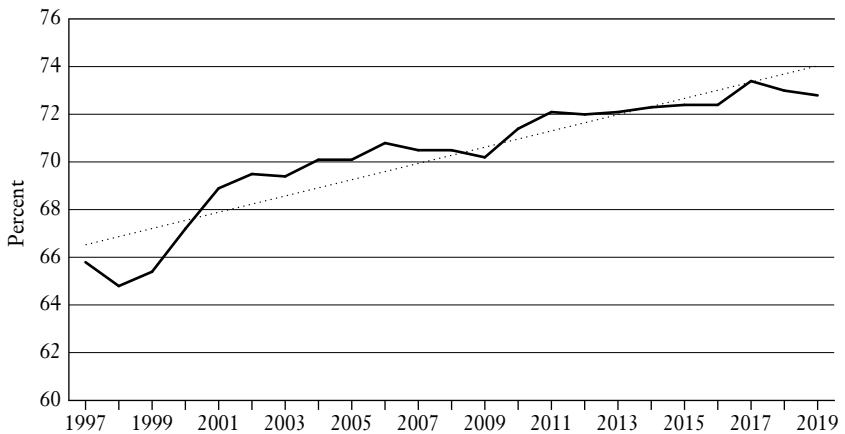
3 Lawrence F. Katz and Alan B. Krueger, “The Rise and Nature of Alternative Work Arrangements in the United States, 1995-2015” (2019) 72:2 *Industrial and Labor Relations Review* 382-416.

FIGURE 1 Proportion of Non-Standard Workers in the Workforce by Category, 1997-2019



Source: Statistics Canada, table 14-10-0287-01, “Labour Force Characteristics, Monthly, Seasonally Adjusted and Trend-Cycle” (<https://doi.org/10.25318/1410028701-eng>).

FIGURE 2 Proportion of Employees Among Non-Standard Workers, 1997-2019



Source: Statistics Canada, table 14-10-0287-01, “Labour Force Characteristics, Monthly, Seasonally Adjusted and Trend-Cycle” (<https://doi.org/10.25318/1410028701-eng>).

the United States generally earn lower wages and are more likely to be taking non-standard jobs involuntarily than are independent contractors.⁴ This pattern may hold in Canada as well: the proportion of part-time employees who were involuntary part-timers in Canada was 21.8 percent in 2018,⁵ whereas only 5 percent of self-employed individuals surveyed reported “could not find suitable paid employment” as their reason for being self-employed.⁶ Therefore, part-time and other non-standard employees may well be more vulnerable, on average, than independent contractors.

The already large (and possibly growing) size of the non-standard employment sector, and the fact that “flexible employees” may be just as vulnerable as (if not more vulnerable than) the self-employed, raise many policy challenges, including two important types of challenges in particular for employment insurance (EI). First, flexible employees may be inadequately protected by traditional social insurance such as EI, even though they are more adversely affected by economic shocks such as the one that the pandemic has delivered. For example, Canadian women in part-time jobs made up 13 percent of total employment in February 2020 but accounted for 33 percent of all job losses between February and May 2020. Part-time male workers represented 7 percent of the pre-COVID-19 workforce but 17 percent of job losses during the same period.⁷ These data imply that as the pandemic is brought under control, half of the jobs to be recovered will be part-time. Yet by August 2020, Canadian-born workers had recovered 86 percent of the full-time jobs lost but only 44 percent of the part-time jobs.⁸ Part-time workers thus seem to have been both worse-hit by the COVID-19 fallout and slower to recover than full-time employees and the self-employed.⁹ Gaps in EI coverage for part-time workers would therefore leave the most vulnerable unprotected.

4 Lawrence F. Katz and Alan B. Krueger, *Understanding Trends in Alternative Work Arrangements in the United States*, NBER Working Paper no. 25425 (Cambridge, MA: National Bureau of Economic Research, 2019).

5 Organisation for Economic Co-operation and Development, “Incidence of Involuntary Part Time Workers,” *OECD.Stat* (https://stats.oecd.org/Index.aspx?DataSetCode=INVPT_1).

6 Lahouaria Yssaad and Vincent Ferrao, *Self-Employed Canadians: Who and Why?* Statistics Canada catalogue no. 71-222-X (Ottawa: Statistics Canada, 2019), at 8, table 3.

7 See Behnoush Amery and Brittany Feor, “Impacts of COVID-19 on Women Working Part-Time,” *LMiC*, June 18, 2020 (<https://lmic-cimt.ca/impacts-of-covid-19-on-women-working-part-time>).

8 See Behnoush Amery and Bolanle Alake-Apata, “Part-Time and Full-Time Employment Among Immigrants: A Tale of Two Recoveries,” *LMiC*, October 8, 2020 (<https://lmic-cimt.ca/part-time-and-full-time-employment-among-immigrants-a-tale-of-two-recoveries>). Immigrants are significantly less able than Canadian-born workers to recover full-time jobs lost, while being significantly better able to recover part-time jobs.

9 Tammy Schirle and Mikal Skuterud report that by April 2020, the unincorporated self-employed had suffered a 55 percent decline in aggregate hours worked relative to February, but by August, roughly 80 percent of such reductions had been recovered. See Tammy Schirle

The second challenge for EI is that when “standard” employees (those who hold permanent full-time positions) are subject to an adverse economic shock, both the initial deterioration of their circumstances and their paths of recovery may lead them into non-standard employment. That is, standard employees no longer face just two states of the world—permanent full-time employment and unemployment—but a third, in-between state of “flexible employment.” Any insurance scheme must address this third state as well.¹⁰

The next section considers these two issues in greater detail by analyzing how flexible workers in Canada’s formal employment sector are treated by four main components of the federal government’s fiscal response to the COVID-19 pandemic:

1. enhanced EI,
2. the Canada emergency response benefit (CERB) and the Canada recovery benefit (CRB),
3. work sharing (which is part of the EI program), and
4. the Canada emergency wage subsidy (CEWS).

EI, CERB, AND CRB

Part-time and temporary employees have long faced challenges in accessing EI benefits, as well as benefits typically offered by employers, such as drug, vision, dental, and mental health care.¹¹ But there appear to have been improvements in EI coverage for non-standard employees in recent years. According to the Canada Employment Insurance Commission, EI coverage of permanent part-time employees rose to 86 percent in 2018 (from 66 percent in 2014 as reported by Busby and Muthukumar),¹² and coverage of temporary non-seasonal workers increased from

and Mikal Skuterud, “The Challenge of Designing Income Support Programs for the Self-Employed,” *Finances of the Nation*, September 22, 2020 (<https://financesofthenation.ca/2020/09/22/income-support-programs-for-the-self-employed>).

- 10 See the Institute for Research on Public Policy panel in November 2020: Stéphanie Lluís, Tammy Schirle, and Mikal Skuterud, “The Future of EI Within Canada’s Social Safety Net: Access, Adequacy, and Work Incentives,” Institute for Research on Public Policy (IRPP), November 18, 2020 (<https://irpp.org/irpp-event/webinar-the-future-of-ei-within-canadas-social-safety-net-access-adequacy-and-work-incentives>).
- 11 According to Busby and Muthukumar, while between 91 percent and 95 percent of full-time permanent workers qualified for EI after being laid off, access to EI for part-time workers ranged from 48 percent to around 70 percent, depending on year and region. Among temporary non-seasonal workers, only 60 percent to 70 percent were EI-eligible upon layoff or expiry of the contract. New entrants to the labour force have even greater difficulty in accessing EI: for youth and immigrants, only around 40 percent to 60 percent have sufficient hours to qualify for benefits. Colin Busby and Ramya Muthukumar, *Precarious Positions: Policy Options To Mitigate Risks in Non-Standard Employment*, C.D. Howe Institute Commentary no. 462 (Toronto: C.D. Howe Institute, 2016), at 15. In computing these ratios, the authors considered only workers who had contributed to EI.
- 12 *Ibid.*

73 percent in 2014 to 78.5 percent in 2018.¹³ In 2020, the federal government made temporary enhancements to EI (for one year) to make the program “more simple, flexible and generous.”¹⁴ Key changes include reduced insurable employment hour requirements (120 hours of insurable work or more can now qualify for regular and special benefits, wherever one lives in Canada); a floor to the benefit rate set at \$500 per week; at least 26 weeks of benefits;¹⁵ and waiver of the usual 1-week waiting period and medical certificate requirement for EI sickness benefit claimants. The reduced insurable hour requirement could certainly help part-time and temporary workers who lose their employment—as does the \$500 per week floor for benefits.

The basic condition for claiming EI benefits, though, is that the worker must have lost employment (unless the worker participates in a work-sharing agreement, as discussed below). If a worker continues working without a layoff, the enhanced EI benefit will not be available. Compare this to the CERB/CRB. A CERB/CRB claimant must have earned at least \$5,000 in 2019 or 2020, and must have not returned to work owing to COVID-19 *or* have seen an income drop of at least 50 percent. On a first look, CRB claimants are entitled to the same level of benefits as EI claimants: a minimum of \$500 per week for up to 26 weeks.¹⁶ However, this apparent parity is deceptive: a part-time or temporary employee who has retained his or her job but has suffered an income drop of 50 percent (for example, through reduced hours) will not be eligible for EI benefits, but can only claim benefits under the CERB/CRB.

Further, if an EI claimant receives benefits but works part-time while on claim, benefits are clawed back by 50 cents for each dollar earned. In contrast, the CRB’s clawback rules (also 50 cents for every dollar) apply only for earnings over \$38,000, and the clawback occurs only when the claimant files an income tax return in the following year. The CRB is thus much more generous than EI benefits available to those engaged in part-time work.¹⁷ A part-time employee is therefore better off under the CRB than under EI. Can a part-time employee opt for the CRB instead of claiming EI? The answer is no: anyone who is eligible for EI (including by virtue

13 Canada Employment Insurance Commission, *2018-2019 Employment Insurance Monitoring and Assessment Report* (Ottawa: CEIC, 2020), at 70, table 14.

14 Canada, Department of Finance Canada, *Fall Economic Statement 2020—Supporting Canadians and Fighting COVID-19*, November 30, 2020, at paragraph 2.1.2 (www.budget.gc.ca/fes-eea/2020/report-rapport/toc-tdm-en.html). The government, *ibid.*, claims that the EI program is “supporting an additional 400,000 people” as a result of these changes. The package announced in November 2020 modified earlier policies delivered through the CERB program.

15 Proposed changes announced on February 19, 2021 would extend regular EI benefits to a maximum of 50 weeks.

16 Proposed changes announced on February 19, 2021 would extend benefits under the CRB to a maximum of 38 weeks.

17 Patrick Brethour, “Canada Recovery Benefit vs. EI: Which Program Will Get People Working Again?” *Globe and Mail*, October 2, 2020.

of the reduction of the insurable hour requirement to 120 hours) will not be eligible for the CRB.¹⁸

It has been widely commented that the CRB is a generous program in that claimants have not previously paid any insurance premium for the benefits they receive, whereas EI claimants will have made such contributions. But the CRB's generosity is also manifest on the benefits side. First, to claim EI benefits, an employee (part-time or full-time) must have suffered a loss on the extensive margin (being laid off) and not just on the intensive margin (through reduced hours or pay), whereas the CRB (and also the CERB) does not require such layoff.¹⁹ Second, EI benefits are clawed back at a 50 percent rate for any hour worked, whereas clawback of benefits received from the CRB is triggered only at a higher income level. Even for workers who have contributed to EI, the CRB is likely to present (and the CERB is likely to have presented) more attractive benefits. In estimating the number of workers who might have benefited from the expanded EI, an important question to consider is how many of those workers would have chosen the CERB/CRB instead.

These observations illustrate how flexible work within the employment space might fall through the cracks of a policy framework that focuses only on full-time employment and self-employment. Arguably, EI's work-while-on-claims rules reflect the fact that EI is primarily designed as insurance for full-time workers (aside from special regional variations catering to seasonal industries): full-time workers who are laid off are encouraged to search for full-time jobs, while part-time work during claim periods is meant to be only transitional, not the normal state.²⁰ The CERB/CRB, fortunately, did not assume that formal employees are amply taken care of by EI. While the CERB/CRB's benefits for the self-employed have been widely

18 See Canada Recovery Benefits Act, SC 2020, c. 12, s. 2, section 3(1)(g): a benefit under the CRB can be claimed only if “no benefit period, as defined in subsection 2(1) of the Employment Insurance Act, was established or could have been established in respect of any week that falls within the two-week period.” Under the Canada Emergency Response Benefit Act (CERBA), SC 2020, c. 5, s. 8, a worker is ineligible if he or she actually made a claim under the Employment Insurance Act. Therefore, EI-eligible workers could still qualify under the CERBA if they made no EI claims. In fact, the government actively encouraged workers to make CERB claims instead of EI claims because the “EI system was not designed to process the unprecedented high volume of applications received in the past week. Given this situation, all Canadians who have ceased working due to COVID-19, whether they are EI-eligible or not, would be able to receive the CERB to ensure they have timely access to the income support they need.” See Canada, Department of Finance, “Government Introduces Canada Emergency Response Benefit To Help Workers and Businesses,” *News Release*, March 25, 2020.

19 As discussed below, work sharing mitigates this problem to some extent for permanent full-time workers but is less likely to do so for part-time workers.

20 Stéphanie Lluís and Brian McCall, “Employment and Job Search Implications of the Extended Weeks and Working While on Claim Pilot Initiatives” (2019) 45:2 *Canadian Public Policy* 129-72 (<https://doi.org/10.3138/cpp.2018-031>).

discussed,²¹ in reality these programs may have provided even more substantial assistance to employees.

WORK SHARING

A similar neglect of flexible employment can be observed in Canada's work-sharing program. Work sharing is intended to be a short-term work (STW) scheme that supports job retention during business downturns by subsidizing hours not worked. Its features are more easily rationalized if the program is understood as being targeted at firms considering layoffs of permanent employees. A traditional rationale for work sharing is that EI standing alone creates a perverse incentive: since employees laid off would be entitled to claim EI benefits but employees facing reduced hours and reduced pay would not, employers may be more tempted to lay off employees. The work-sharing program, by making EI benefits available for reduced hours, mitigates this effect of EI.²² It follows that if the EI program is primarily intended to provide insurance for permanent full-time workers, work sharing also serves this limited purpose. Indeed, an explicit restriction of the program is that only permanent, year-round, EI-eligible "core staff" are eligible to participate.

Other features of work sharing reflect this orientation. For example, equal, proportional reductions must be made for all employees within a work unit described in a work-sharing agreement. This egalitarianism may mean that workers who would not otherwise have been laid off (for example, employees with sufficient seniority) bear the greatest portion of the work-sharing cost. However, it also means that employers are less likely to include employees with different wage rates and work status in the same work-sharing agreement. In particular, part-time workers are less likely to be included.

Another related feature is that work sharing limits the hours reduced to no more than 60 percent and no less than 10 percent of the worker's normal hours. Some have suggested that by limiting hour reductions per worker, STW programs can indirectly encourage employers to spread reductions more broadly among employees. Given that part-time workers have reduced hours to begin with, proportional reduction requirements may also make it less likely for part-timers to participate in work sharing.²³

21 The CRB has been hailed as EI for the self-employed. Robin Boadway, "The Canada Recovery Benefit: Employment Insurance or Basic Income Guarantee?" *Finances of the Nation*, October 9, 2020 (<https://financesofthenation.ca/2020/10/09/crb-ei-or-basic-income-guarantee>).

22 This perspective on work sharing implies that the latter is not even a job retention program per se, but a program aimed at alleviating the negative effect on job retention of the existence of an EI program.

23 A US Department of Labor report suggests that maximum hour reduction requirements are imposed in some states specifically to limit "the ability of employers to subsidize the wages of new part-time employees." See Stephen Walsh, Karen Needels, Rebecca London, Walter Nicholson, Deana McCanne, and Stuart Kerachsky, *Evaluation of Short-Time Compensation Programs, Final Report*, submitted to United States Department of Labor, Employment and

Finally, many of the procedural costs of work sharing—including the need for participating employers and employees to enter into an agreement with the government—imply that it is only when the cost of layoff is high that work sharing is sufficiently attractive to employers. A report published in 2011 by the Organisation for Economic Co-operation and Development (OECD) commented that this may explain why STW schemes are relatively rare in countries (such as the United States and Canada) where legal protections for full-time workers are relatively weak.²⁴ Again, this suggests that STW programs in general, and Canada's work-sharing program in particular, may never have been intended to help flexible workers.

Work sharing's bias toward permanent full-time workers appears to be reflected in the program's takeup. Two-thirds of work-sharing agreements entered into between 2014 and 2018 involved employers in the goods-producing sectors,²⁵ whereas the number of part-time workers in these sectors was less than 1/10 of the number of part-time workers in services sectors.

In contrast, STW schemes in other countries have become more accommodating with respect to flexible employees during the COVID-19 pandemic.²⁶ The French *activité partielle*, for example, treats all employees with a contract (permanent or not) as eligible.²⁷ The German *Kurzarbeit* is normally available to workers on temporary contracts and apprentices, and it was extended to agency workers at the start of the COVID-19 crisis.²⁸ The Italian STW scheme (*cassa integrazione guadagni*) seems to allow much greater hour reduction—all the way to zero.²⁹ Japan's employment adjustment subsidy has also been extended to cover non-regular workers who

Training Administration (Oakland, CA and Princeton, NJ: Berkeley Planning Associates and Mathematica Policy Research, Inc., March 1997), at 4-23.

- 24 Alexander Hijzen and Danielle Venn, *The Role of Short-Time Work Schemes During the 2008-09 Recession*, OECD Social, Employment and Migration Working Papers no. 115 (Paris: OECD, January 2011). Hijzen and Venn posit that “[e]ven if workers in non-regular jobs are eligible for STW in principle, the incentive for firms to place such workers on STW is likely to be considerably weaker than for their core workforce. Participation in these schemes tends to be costly for employers, while hiring and firing costs tend to be low for workers in non-regular jobs”: *ibid.*, at paragraph 42.
- 25 Canada Employment Insurance Commission, *2017-2018 Employment Insurance Monitoring and Assessment Report* (Ottawa: CEIC, 2019), at 125, table 41. The fact that goods-producing sectors have a great share of private-sector unions is consistent with the observation that short-term work arrangements tend to be utilized more when the costs of layoffs are high.
- 26 See Stefano Scarpetta et al., *OECD Policy Responses to Coronavirus (COVID-19), Job Retention Schemes During the COVID-19 Lockdown and Beyond* (Paris: OECD, October 2020) (www.oecd.org/coronavirus/policy-responses/job-retention-schemes-during-the-covid-19-lockdown-and-beyond-0853ba1d).
- 27 *Ibid.*, at 3.
- 28 *Ibid.*, at 4. Moreover, restrictions on taking other jobs while on STW were lifted. Workers are allowed to cumulate additional earnings and STW benefits as long as total income does not exceed previous earnings. See *ibid.*
- 29 *Ibid.*

are not covered by EI.³⁰ Indeed, the OECD notes that extending coverage to non-permanent workers is one of the key modifications to existing STW schemes that countries made in response to the COVID-19 crisis.³¹

Of course, it would be wrong to fault the Canadian government for not making work sharing more accessible to flexible workers during the COVID-19 crisis: after all, the much larger CEWS program, discussed below, was open to both employers and employees. Work sharing can hardly be viewed as defective when employers may also choose to claim benefits under CEWS. Nonetheless, the foregoing discussion underscores the fact that standard STW schemes tend to neglect the needs of employees engaged in flexible work.

CEWS

In contrast to work sharing, the wage subsidies available through CEWS cover payroll expenses associated with almost all employees, regardless of time actually worked, EI eligibility, etc. Moreover, they apply to all types of remuneration, regardless of how reduced hours or reduced pay are distributed among employees. This means that it is likely that many employed workers received benefits as individuals under the CERB/CRB because of reduced earnings, while at the same time their remaining payroll was subsidized through CEWS. Thus, flexible workers can be better off under CEWS than under work sharing for at least two reasons: first, because CEWS is more accessible for such workers; and second, because the benefits that workers receive under the CRB may be more generous than any EI benefits that those workers can claim under a work-sharing agreement (as discussed above).

The positive impact of wage subsidy programs on flexible workers has been noted as a major reason to supplement or even replace STW schemes with wage subsidies. The OECD has remarked on the ability of CEWS (and a similar temporary wage subsidy scheme in Estonia) to provide “a more flexible form of support for firms which can manage their hours freely without any reporting requirements.”³² It notes that

firms may have weak incentives to hold on to non-standard workers during periods of STW, especially if the scheme imposes a direct cost on employers. This seems to be a place where the work subsidy program can be very helpful.³³

30 Japan also allows workers to apply for the subsidy directly when their small to medium-sized enterprise employers have not applied for the subsidy despite reducing hours, instead of relying on a tripartite agreement. See *ibid.*

31 *Ibid.*, at 5: “Nine [OECD] countries extended eligibility . . . to include temporary, temporary-agency and even certain categories of self-employed workers . . . [so as to] reduce the risk that STW schemes reinforce labour market duality.”

32 *Ibid.*, at 6.

33 *Ibid.*, at 5.

Indeed, the Netherlands has even replaced its existing STW scheme with a temporary work subsidy program that bears a significant resemblance to CEWS.

A recent study of regional wage subsidies in US empowerment zones showed that when wage subsidies are capped per employee (as was the case with CEWS), employers may be more inclined to hire part-time or low-wage workers.³⁴ This may seem unsatisfactory when wage subsidies are meant to induce full-time employment at high wages. But if the employment of part-time and low-wage workers is the government's goal, then the evidence speaks in favour of wage subsidies. When we consider the pandemic's disproportionate impact on both low-wage and part-time workers, helping this portion of the Canadian workforce seems especially important.³⁵

Work subsidy programs like CEWS intend to support employment relationships not only on the extensive margin (that is, preventing layoffs) but also on the intensive margin, by helping to maintain wage levels across a wide range of employment arrangements. Interestingly, this very rationale for CEWS has also been the cause of a great deal of criticism directed at the program: many have blamed CEWS for "supporting many jobs that may be at no risk."³⁶ It is indisputable that CEWS can be designed to be more narrowly targeted; this criticism applies almost universally to all fiscal responses to economic crises anywhere,³⁷ and to the majority of social assistance and active labour market programs even during non-emergency times. But evaluating CEWS purely on the basis of the number of jobs saved (and the associated cost) can also be problematic if that approach unreflectively privileges the extensive margin of employment (that is, if only potential layoffs mark jobs at risk), or if it ignores the fact that much non-standard employment is intrinsically precarious, and thus there may be neither need nor easy means for specifying reduced hour or earning loss requirements for such work.

34 Joel A. Elvery, c. Lockwood Reynolds, and Shawn M. Rohlin, *Employer Wage Subsidy Caps and Part-Time Work*, Federal Reserve Bank of Cleveland Working Paper no. 21-01 (Cleveland, OH: Federal Reserve Bank of Cleveland, January 2021).

35 More generally, wage subsidy programs in other countries have been shown to have substantial intensive margin effects. See Emmanuel Saez, Benjamin Schoefer, and David Seim, "Payroll Taxes, Firm Behavior, and Rent Sharing: Evidence from a Young Workers' Tax Cut in Sweden" (2019) 109:5 *American Economic Review* 1717-63.

36 See Michael Smart and Ben Eisen, "There Are Better Ways of Helping the Economy Than CEWS," *Policy Options*, January 26, 2021 (<https://policyoptions.irpp.org/magazines/january-2021/there-are-better-ways-of-helping-the-economy-than-cews>). Another difference between wage subsidy and STW schemes is that the former subsidize not just job retention, but also new hiring. CEWS critics have also downplayed this aspect of CEWS.

37 Among the common criteria for effective fiscal stimulus—the "three T's" of temporary, timely, and targeted—the first criterion appears to be the main way to resolve tensions between the latter two.

CONCLUSION

It might seem natural to group the federal government's fiscal support of Canadian workers during the pandemic into two categories: the CERB/CRB and (enhanced) EI represent *employment/income insurance for individuals*, while work sharing and CEWS are *job retention* programs targeted at employers. The former pair of policies has been widely recognized as Canada's attempt to broaden the social safety net during an unprecedented crisis—a recognition that is reflected in both calls for further enhanced benefits³⁸ and critiques alleging the policies' excessive generosity.³⁹ In contrast, work sharing remains less well known, and CEWS has received mostly negative attention among academic commentators.

I began this commentary by noting that the future of work may be most actively manifest in the varieties of flexible work within the formal employment sector: transitions both out of and back into employment are increasingly likely to begin or end with part-time or temporary employment. Consequently, the design of a social safety net for precarious workers may need to focus more on flexible employees than on either independent contractors or unemployed workers seeking full-time employment. From this perspective, an alternative pairing of the components of Canada's pandemic fiscal support emerges.

On the one hand, the design of both EI and work sharing, even during a period of extraordinary government spending, seems inadequately suited for flexible employees. This may have resulted from an unwarranted fixation on the extensive margin of employment, which characterizes the EI regime and therefore its derivative program, work sharing. This same fixation may also have influenced critiques made of CEWS.

On the other hand, both the CERB/CRB and CEWS have helped workers at the intensive margin of employment. It is critical to recognize that the CERB/CRB may have provided significant assistance to employed individuals—the number of claimants has far outstripped the number of self-employed individuals in Canada. And it is critical to remember that CEWS is not just a job retention, but also literally a wage support, program. Any redesign of social insurance to serve the need of flexible employees will have to incorporate some form of intensive margin intervention.

38 See Miles Corak, "An Employment Insurance System for the 21st Century: Lesson 2, The Future of Work Calls for Better Income Insurance," *Finances of the Nation*, February 1, 2021 (<https://financesofthenation.ca/2021/02/01/an-employment-insurance-system-for-the-21st-century-lesson-2-the-future-of-work-calls-for-better-income-insurance>), advocating for higher replacement rates and maximum insurance earnings under EI.

39 See John Lester, "Overcompensation of Income Losses: A Major Flaw in Canada's Pandemic Response," *Finances of the Nation*, December 8, 2020 (<https://financesofthenation.ca/2020/12/08/overcompensation-of-income-losses-a-major-flaw-in-canadas-pandemic-response>), providing evidence of overcompensation of income loss under the CERB; and Boadway, *supra* note 21, expressing concern about the CRB's ability to deal with the moral hazards of self-employed claimants.