particularly workers and women.[53] Tight control over inflation is useful to protect the value of investments, but it may come at the expense of jobs and growth.[54] A preoccupation with fiscal austerity may stabilize budgets, but it almost invariably compels workers to become more reliant on their own efforts to ensure their well-being, even where market opportunities decline for reasons that lie entirely beyond their control. For a complex set of reasons, including gender stratification in labour markets, the maldistribution of unpaid work between men and women, and social norms about obligations of care, women in particular are likely to bear increased costs in times of restructuring and recession.[55]

Governance and regulatory dimensions of the international order are central to questions of inequality. Critical distributive work is done in the course of setting the regulatory and institutional framework that governs economic transactions, and in specifying the concerns and objectives that should animate state policy and action in this regard. Because of the links described above, trade and investment rules are obviously key sites of interest. However, relevant issues for workers might also include tax rules that determine the fiscal burdens on workers and consumers, as well as corporate law rules that establish when and where it is possible to take into consideration the concerns of stakeholders other than owners and shareholders. Beyond this, workers may have a stake in the direction of regulatory reforms concerning a wide variety of matters, from zoning laws to environmental protection. Such reforms are often advanced with an eye to attracting more private-sector investment, but whatever their success in that venture, they also have an effect on the allocation of

53 D. Elson & N. Cagatay, "The Social Content of Macroeconomic Policies" (2000), 28 World Development 1347.444444

54 J. Stiglitz, *Globalization and Its Discontents* (New York: W.W. Norton, 2002).

55 There is by now a large amount of literature on the gendered effects of macroeconomic reforms and the consequences for women in labour markets of the maldistribution of unpaid work as between men and women. See, for example, L. Beneria, "The Enduring Debate over Unpaid Labour" (1999), 138 International Labour Review 287; D. Elson, "Labor Markets as Gendered Institutions: Equality, Efficiency and Empowerment Issues" (1999), 27 World Development 611; S. Baden, "The Impact of Recession and Adjustment on Women's Work in Selected Developing Countries," Bridge Report No. 15 (Brighton: Bridge, IDS, 1993).

risks and the imposition of costs and burdens on other parties, including workers.

Despite the tendency to imagine private law rules as merely the constitutive fabric of a market economy, matters that can safely be consigned to the technocracy if they are thought about at all, important distributive stakes are disposed of here.[56] Enhanced freedom of contract and reforms to property laws may well facilitate the emergence of new markets, and enable firms and investors to operate with greater ease and lower costs, both within and across borders. But they may also alter long-standing entitlements to land and other resources, and the processes of change they set in motion may undermine or destroy sources of livelihood and economic security.[57]

While many different legal regimes have a potential impact on work and workers, the labour market institutions that govern the workplace and structure the employment bargain are certain to be central. To reiterate, private law rules have distributive properties as well as effects on efficiency. Depending on their content, the formalization of entitlements can entrench inequality or create the conditions for increased inequality, especially where there are significant disparities in the distribution of assets. The relational character of private law rules means that such reforms also alter the bargaining power of social and economic actors.[58] In the absence of countervailing sources of regulatory power, some of which are provided by labour market institutions, the strengthened property and contract entitlements of employers can be expected to operate to undercut workers' capacity to successfully advance their own concerns and interests. It has long been recognized that labour market institutions are central to the basic balance of power in the workplace, and how that balance is struck is something that will ultimately cash out in the employment contract. However, these institutions have added egalitarian or distributive significance at times of economic restructuring

56 Study Group on Social Justice in European Law, "Social Justice in European Contract Law: A Manifesto" (2004), 10 Eur. L.J. 653.

57 A classic example is the reforms to Mexican land law in advance of the North American Free Trade Agreement.

58 W. Hohfeld, "Some Fundamental Legal Conceptions as Applied in Legal Reasoning" (1913), 23 Yale L.J. 16; R. Hale, "Coercion and Distribution in a Supposedly Non-Coercive State" (1923), 38 Political Science Quarterly 470.

and intense instability in the labour market. To reiterate, it is well known that jobs will be destroyed as well as created in the context of trade liberalization and economic integration. Whether those losses lie where they fall, or whether they are attenuated and borne more equally, as between firms and workers or among citizens within a state, is, in part, a function of the labour law rules and wider structure of social protection and insurance to which the affected workers have access.

This brings us to the current governance norms for labour market institutions.

4. TRANSFORMING LABOUR MARKET INSTITUTIONS AND SOCIAL POLICY: THE OECD JOBS STRATEGY, 1994 AND 2006

The elements of the current policy consensus around labour market regulation and social policy can be traced to a 1994 report, the *OECD Jobs Study*.[59] A major report analyzing the state of labour markets in the industrialized world, the *Jobs Study* detailed the types of structural reforms that were, in the view of the OECD, required to remedy the high levels of unemployment characteristic of European labour markets at the time. Although labour market issues in Europe were the catalyst to the study, the *Jobs Study* has turned out to be highly influential in respect of the analysis of labour market institutions and social policy in general. It is also highly representative of the views held within the epistemic community of which the OECD is a part.[60] Having entered the realm of regulatory "common sense" within the international technocracy, the *Jobs Study* has come to profoundly influence the direction of labour market institution and social policy reform across both the industrialized and developing

59 OECD, *OECD Jobs Study – Evidence and Explanations. Part I: Labour Market Trends and Underlying Forces of Change*; *Part II: The Adjustment Potential of the Labour Market* (Paris: OECD, 1994).

60 For a discussion of the role of epistemic communities in the formation of global social policy, see B. Deacon, "The Politics of Global Social Policy" (UNRISD Conference on Social Knowledge and International Policy Making: Exploring the Linkages, Geneva, April 20-21, 2004), online: UN Research Institute for Social Development <http://www.unrisd.org>.

worlds. Everything from path dependence and the diverse institutional histories of states, to political resistance on the part of domestic constituencies ensures that the *Jobs Study* cannot be read as a road map to "what actually happened" in respect of reforms to labour market institutions in any jurisdiction. Nonetheless, it laid out a path of reform — the Jobs Strategy — that provides a template and guide to the policies and reforms that have dominated the field of labour market regulation in the intervening period.[61]

The *Jobs Study* was animated by the assumption that poor labour market performance was essentially a function of inadequate labour market flexibility. Echoing longstanding neo-classical arguments about the adverse effects of regulatory "interventions" on growth and competitiveness, the study decisively came down against many of the labour market institutions common in the industrialized world. In particular, it suggested that unemployment could be reduced and economic growth enhanced by weakening or dismantling employment protections in such areas as job security, wage and labour costs, and working time, as well as by decentralizing collective bargaining.[62] In addition, the *Jobs Study* linked labour market institutions to distributional disparities *among* workers, suggesting that those institutions merely privileged those who sheltered under them at the expense of those who were excluded from the market altogether. This, in turn, served to undermine the normative basis for workers' rights and labour standards: far from being instruments of social justice, the *Jobs Study* argued that labour market institutions often simply widened the divisions between insiders and outsiders in the labour force.

The *Jobs Study* also contained a series of complementary recommendations on reforms to social policy. These revolved principally around the goal of "making work pay," for example, by foreclosing easy access to alternative sources of income from the state, whether through employment insurance that provided high

61 In the words of OECD's Secretary-General: "For a decade, this groundbreaking work became an influential blueprint in the reform process of member countries." See OECD, *Boosting Jobs and Incomes: Policy Lessons from Reassessing the OECD Jobs Strategy* (Paris: OECD, 2006), "Foreword."

62 A summary of the recommendations of the 1994 *Jobs Study* can be found in the Annex to OECD, *Boosting Jobs and Income*, *ibid.*, at p. 24.

levels of income replacement or entitlements to "generous" welfare payments. In addition to limitations on access to such schemes, the study advised that both the level of payouts and the time period for which they were available be restricted. These changes were part of a larger shift in focus: states were advised to adopt "active" rather than "passive" labour market measures, that is, to implement rules and policies that did more than merely support workers financially while they were out of work, but were geared instead to quick labour market re-entry and tied to more assiduous efforts on the part of workers to seek out new employment.

The *Jobs Study* thus took direct aim at the range or scope of social protection and insurance initiatives. Instead of broad-based social provision and social protection schemes, it introduced a paradigm favouring a social safety net only for the least well-off.[63] States were advised to "target" resources to the neediest, rather than to extend resources and services to citizens at large. Under this paradigm, even where public resources were indicated, support from the state was expected to be not only narrowly targeted but short- rather than long-term wherever possible. While there remained scope for a social safety net for the very poorest, for the vast majority of citizens social protection became transformed into risk management on the individual or household level.[64] The objectives behind "social risk management," as the new paradigm was sometimes called, depart sharply from the social insurance and social protection schemes associated with the New Deal and other post-war social contracts in the industrialized world. For example, social risk management does not involve broad social pooling of risk, significant transfers of resources, or the universal provision of goods and services; indeed part of its appeal is that it neither involves significant redistribution among citizens nor imposes substantial burdens on the state. Rather, it aims to provide a means of "income smoothing" to enable the individual to accommodate and better weather the foreseeable events that

63 B. Deacon, *supra*, note 60.

64 G. Standing, "Globalization: Eight Crises of Social Protection," in L. Beneria & S. Bisnath, eds., *Global Tensions: Challenges and Opportunities in the World Economy* (New York: Routledge, 2004) 111, at p. 112. Indeed, poverty is literally defined as deficiency in risk management: see World Bank, *World Development Report 2000-2001: Attacking Poverty* (New York: Oxford, 2000).

occur over his or her lifetime.[65] Under this approach, for example, individual retirement accounts might be favoured over publicly guaranteed and managed pensions.

The essential claims and assumptions upon which the *Jobs Study* was based, and the policy and regulatory proposals that the OECD set out in the Jobs Strategy, have been reiterated in numerous domestic and international fora since the study was released. Although the proposals remain controversial, they have long since been incorporated into the labour market and social policy prescriptions of the international economic and financial institutions. For example, the World Bank quickly endorsed both the general vision of labour market reform and the strategies to implement it that were advanced in the *Jobs Study*.[66] In a series of well-publicized reports, the IMF too has been explicit about the need to exert downward pressure on the wage levels, benefits and security of workers in industrialized countries, in order to combat the excessive labour market rigidity that it sees as a source of inefficiency and distributive injustice.[67] The IMF argues relentlessly that what is needed now is not protection for workers against the risks of the new economy, but more emphasis on skills and greater worker adaptability to the demands of the market.[68]

(a) The Jobs Strategy Revisited

In 2006, the OECD revisited the question of the Jobs Strategy. By this time, the labour market reform agenda had expanded from simply reducing unemployment to the more general goal of widening

65 R. Holzmann, L. Sherburne-Benz & E. Tesliuc, *Social Risk Management: The World Bank's Approach to Social Protection in a Globalizing World* (Washington, D.C.: World Bank, 2003).

66 World Bank, *World Development Report 1995*, *supra*, note 20.

67 See for example IMF, *World Economic Outlook: International Financial Contagion*, *supra*, note 20; IMF, *World Economic Outlook: Advancing Structural Reforms* (Washington, D.C.: IMF, 2004).

68 IMF, *World Economic Outlook: International Financial Contagion*, *supra*, note 20, chap. IV; IMF, *World Economic Outlook: Growth and Institutions*, *supra*, note 20; IMF, *World Economic Outlook: Advancing Structural Reforms* (Washington, D.C.: IMF, 2004), particularly chap. III, "Fostering Structural Reforms in Industrial Countries," at pp. 103-146.

labour force participation. In the view of the OECD, this objective has now become a priority,[69] given the spectre of an aging population in virtually all industrialized economies and the growing numbers of dependants who will need to be financed by a diminishing number of active workers. The preferred strategy to forestall the fiscal crises that this shifting ratio of workers to dependants is almost certain to engender is to persuade, induce or coerce those with any capacity to work to enter, and stay in, the labour force. In that vein, the OECD now advocates an increasingly disciplinary approach to access to replacement income provided by the state. In addition to facilitating family-friendly arrangements, such as working time flexibility and child care support, that enable greater participation of women in the labour force, the restated Jobs Strategy[70] recommends a range of rule and policy changes that, for example, extend the tenure of individual employment and eliminate early retirement options. The underlying rationale remains ensuring that work "pays" and that any needed safety net or transitional arrangements do not function to undercut this goal.[71] The OECD is particularly concerned to cut off routes to what it describes as the "benefits dependency" that has grown in the last ten years as access to unemployment benefits has been restricted.[72]

When the OECD returned to the question of reforms to labour market regulation and social policy in 2006, it affirmed much of the Job Strategy that was set out in 1994. Yet at the same time, the OECD issued a report containing evidence that cast in doubt that strategy's most foundational claim — that it represented the best route to "good" labour market performance. The *OECD Employment Outlook 2006* summarizes the evidence and analysis on which the

69 OECD, *Boosting Jobs and Income: Policy Lessons from the OECD Jobs Strategy*, *supra*, note 61, at p. 5.

70 *Ibid.*, at pp. 20-23.

71 *Ibid.*, at p. 21, describing "Pillar B: Remove impediments to labour market participation as well as job-search." On the tendency to employ increasingly disciplinary measures in the context of labour and social policy, see also S. Deakin, "Social Rights in a Globalized Economy," in P. Alston, ed., *Labour Rights as Human Rights* (Oxford: Oxford University Press, 2005) 25; G. Standing, *supra*, note 64, at p. 111.

72 OECD, *Boosting Jobs and Income*, *supra*, note 61, at p. 11.

restated Jobs Strategy is based.[73] What is noteworthy about that report is that it presents a number of empirical findings that differ significantly from those predicted in 1994, some of the most important of which concern the effects of reforms to labour and employment rules. For example, when researchers tracked the effects of labour market reforms and regulatory strategies in different jurisdictions, they discovered that employment standards such as minimum wages did not necessarily lead to higher levels of unemployment.[74] Similarly, there was no evidence that sectoral bargaining had the deleterious effects that were claimed or that decentralized bargaining was actually a route to better labour market outcomes, even if those outcomes were defined merely in terms of the number of jobs. In fact, the OECD had already determined by 1997 that collective bargaining was not linked to unemployment, but had confirmed a link between decentralized bargaining and greater income inequality.[75] Furthermore, in addition to determining that poverty levels were up in general,[76] the 2006 study found an increase in the number of working poor, including in countries such as the U.S. which already had high numbers of working people in poverty.[77]

Despite evidence about the relationship between employment levels and labour market institutions in the *OECD Employment Outlook 2006* that is, at best, equivocal, and despite the acknowledgment of links between labour policy and levels of inequality, what is consolidated in the restated Jobs Strategy ends up being essentially what was proposed in 1994. In *Boosting Jobs and Incomes*, the policy report accompanying the *OECD Employment Outlook 2006*, the OECD observes that "there is no single combination of policies and institutions to achieve and maintain good labour market performance." Indeed, it goes so far as to identify two "demonstrably successful" policy packages: the first, "American" model which emphasizes labour market flexibility but which results in significant income inequality; and the second, "European" model in which states

73 OECD, *OECD Employment Outlook 2006*, *supra*, note 43.

74 *Ibid.*, at p. 96.

75 OECD, *OECD Employment Outlook 1997* (Paris: OECD, 1997), chap. 3, "Economic Performance and the Structure of Collective Bargaining."

76 OECD, *OECD Employment Outlook 2006*, *supra*, note 43, at p. 39.

77 *Ibid.*, at 40.

achieve high employment and low income disparity but at significant budgetary cost.[78] Nonetheless, the new Jobs Strategy remains focused on the same basic reforms to labour market institutions that the OECD advanced in 1994. It also relies upon the "potential" employment benefits of macroeconomic policies focused on strengthening economic growth and of "sound public finance," which have long been understood to form the foundation of good governance norms.[79] For this reason, openness to trade and nurturing an entrepreneurial climate and lowering impediments, burdens and costs to firms form critical parts of the 2006 Jobs Strategy. Mirroring the findings of another influential report series of the World Bank, *Doing Business*,[80] the OECD concludes that there must be continuing emphasis on securing private rights while "competition-restraining state control of business should be reduced."[81]

The restated Jobs Strategy identifies four policy and regulatory "pillars": (i) setting appropriate macroeconomic policy; (ii) removing impediments to labour market participation; (iii) tackling labour- and product-market obstacles to labour demand; and (iv) facilitating the development of labour force skills and competencies. The general claim is that "reformers," that is, those who followed the 1994 Jobs Strategy, have done better than those who did not. Although a key finding of the *OCED Employment Outlook 2006* is that the effect of employment protection on overall unemployment is small,[82] this is not in the end reflected in the policy recommendations. Instead, in 2006 as in 1994, the Jobs Strategy flags not only potential efficiency problems but also the distributive injustices generated by labour market institutions.

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78 OECD, *Boosting Jobs and Income*, *supra*, note 61, at pp. 18-19.

79 See *ibid.*, Pillar A: "Set appropriate macroeconomic policy" (at p. 20).

80 See for example, World Bank, *Doing Business in 2004: Understanding Regulation* (Washington, D.C.: World Bank, 2003).

81 OECD, *Boosting Jobs and Income*, *supra*, note 61, at p. 22.

82 OECD, *OECD Employment Outlook 2006*, *supra*, note 43, at p. 96. This finding is qualified by the observation that "too strict" employment protections are "likely to reduce the dynamic efficiency of the economy while worsening long-term unemployment and disadvantaging youth and women" (at p. 100).

Because of the centrality of human capital to economic growth and social objectives, skills and training also get a nod.[83] However, the overall emphasis is on ensuring that training is more responsive to market demand. In addition, the Jobs Strategy recommends the introduction of incentives to co-financing of skills training by the private sector. While the state is directed to provide high-quality initial education, the Jobs Strategy recommends nothing in the way of financing and state programs to promote or enable the development of human capital. The Jobs Strategy finishes by underscoring the fact that "strong resistance" is to be expected from well-organized groups (such as unions) but it insists, notwithstanding evidence which is equivocal at best, that the costs of failing to implement reforms will be weak labour market performance and ultimately declining living standards.

Despite the apparent viability of different routes to good labour market outcomes, the Jobs Strategy remains anchored in a belief about the superiority of liberal regimes, above all the American labour market model. The OECD continues to insist upon providing employers with greater flexibility; exhibits ongoing opposition to collective bargaining, especially to bargaining conducted at the sectoral level; counsels downward reforms to employment protections; and remains constantly alert to restraining payroll costs and, with the exception of payouts directed toward the "needy," to curbing social expenditures by the state.

(b) Parsing the Jobs Strategy

As the restated Jobs Strategy makes clear, labour market participation is now envisioned as the portal to economic security for the vast majority of citizens. But if jobs stand in as the engine of social justice and equality too, then the Jobs Strategy and its distributive consequences deserve a closer look. Here, three inter-related concerns, concerns that are likely to be germane to most, if not all, market-centred projects for social justice, stand out: first, the possibility of unemployment or under-employment; second, the problem of

83 OECD, *Boosting Jobs and Income*, *supra*, note 61, at p. 23.

precarious work; and third, the possibility of ongoing disadvantage for a large sector of the labour market, namely women, resulting from unpaid work.

(i) *Unemployment and Under-Employment*

Implicit in the claim that the Jobs Strategy produces "good" labour market outcomes is the assumption that once the background conditions enabling labour markets to function optimally are implemented and the disincentives to participation are removed, markets can be expected to provide at least acceptable employment for the vast majority of citizens.

The Jobs Strategy remains focused almost exclusively on inducements to workers to enter the labour market. The enduring preoccupation with incentives to participation rests on the assumption that the question of jobs can be approached primarily as a supply-side issue, a matter of inducing workers to take up available labour market opportunities. In this scenario, economic insecurity is imagined to arise largely from personal circumstances such as lack of skill or other individual traits that impair labour market participation, or from personal choice, rather than from fluctuating or declining demand in labour markets or disruptions to local, regional or national economies as a whole.

However, workers are periodically subject to structurally-induced unemployment as well. There are reasons to think that, at the moment, the likelihood of this happening is heightened. A distinct possibility is that demand-side problems might be either induced or exacerbated by elements of the policy consensus on good macroeconomic governance. As a number of analysts have observed, stabilization measures routinely seem to produce recessions and declining employment;[84] moreover, job losses may stubbornly persist after the recession itself is over.[85] It is clear that trade liberalization too may

84 Cornia, *supra*, note 41.

85 R. van der Hoeven & C. Saget, "Labour Market Institutions and Income Inequality: What Are the New Insights after the Washington Consensus?" in G.A. Cornia, ed., *Inequality, Growth, and Poverty in an Era of Liberalization and Growth* (Oxford: Oxford University Press, 2004) 197.

aggravate unemployment levels, particularly in the short to medium term. It is rare to see this possibility highlighted, but the reallocation of labour, along with financial and other productive resources in trade-related restructuring, is an important source of the expected gains from trade. It is entirely possible that, as imagined, workers will find re-employment in higher value-added work; some certainly do. Nonetheless, workers may also be dislocated and subsequently disadvantaged: there is no guarantee that "replacement" jobs will automatically spring up in any particular place, that they will suit the displaced workers in terms of skill and experience, or that if they do, they will provide roughly equivalent (or better) wages and benefits. Put simply, the employment results of such policies are equivocal. For this reason, the foundational role given to inflation control, fiscal discipline, macroeconomic stabilization, and trade and investment liberalization in a *jobs strategy*, as opposed to simply a growth strategy, raises further issues.

If there are inherent risks to workers in the liberalization of trade, adverse outcomes are not inevitable, and if they do materialize, they can be mitigated, at least to some degree, by redistributive mechanisms. There is no necessary conflict between such mechanisms and open trade;[86] if the generation of winners and losers is as routine, and even as systemic, as it appears to be, liberalized trade and globally integrated economies may be hard to defend normatively in the absence of some institutionalized commitment to redistribution.[87] Whatever the normative case for redistribution, the proponents of reform themselves recognize that there is a point at which the inequities of economic restructuring may well threaten the reform project itself. As the OECD observes elsewhere, labour market displacement has costs, raises equity concerns and may well

86 The classic case is Denmark, a state that has long had high levels of trade and maintains a robust social state as well. See D. Rodrik, *Has Globalization Gone Too Far?* (Washingon, D.C.: Institute for International Economics, 1997).

87 E. Kapstein, "Distributive Justice as an International Public Good: A Historical Perspective," in I. Kaul *et al.*, *Global Public Goods: International Cooperation in the 21st Century* (New York: Oxford University Press, 1999) 88; T. Pogge, *World Poverty and Human Rights: Cosmopolitan Responsibilities and Reforms* (New York: Polity, 2002).

erode the support for the structural changes necessary at the national level.[88]

The adverse effects of restructuring on workers and communities will almost certainly be exacerbated where labour market reforms reduce "rigidities" and eliminate constraints on the property and contractual rights of investors and employers. Such reforms allow firms to externalize rather than absorb the costs involved in economic restructuring and relocation, whether those costs are trade-related or simply the consequence of transformations in the world of work in the new economy. Reductions in job security protections, for example, compel workers to bear more of the cost of interruptions to employment, and eliminating the obligation to compensate overtime work may simply transfer money from employees to employers. In the face of declining access to social transfers, employment insurance and other publicly subsidized services and benefits, the degree of economic hardship experienced by such workers may be pronounced. The upside of the strategy is supposed to be more, and better, jobs — "boosting jobs and incomes" — generated by more dynamic labour markets. But the downside remains a distinct possibility: job losses or under-employment accompanied by reduced ability to make claims on either the state or the employer for adjustment assistance or other income losses. The net result may be lower returns for workers and worsening inequality: while some workers can expect to see high returns, declining wages and employment prospects may be the fate of others.

Even if trade liberalization reliably generated new jobs, and putting aside macroeconomic disruptions to labour markets, it remains unclear why a policy simply to generate more jobs deserves widespread support. For as the *OECD Employment Outlook 2006* documents, higher employment does not necessarily equate to reduced poverty or greater economic security. To reiterate, even the 2006 Jobs Strategy recognizes two paths to good labour market outcomes: "One way is to emphasize product- and labour-market flexibility, though it may imply income inequalities . . . another way combines flexibility with security, but is more expensive."[89]

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88 OECD, *Trade and Structural Adjustment: Embracing Globalization* (Paris: OECD, 2005).

89 OECD, *Boosting Jobs and Incomes*, *supra*, note 61, at p. 19.

As the *OECD Employment Outlook 2006* indicates, following the path of labour market flexibility appears to have distributive as well as efficiency implications; indeed, the distributive consequences seem to be more certain than the effects on employment levels, as acceptable job creation results appear to be available by either route. However, the fact that jurisdictions following either of the two routes are described equally as "successful performers" shows that distributive consequences are of no serious import in the Jobs Strategy. This suggests, and perhaps confirms, that notwithstanding the title of the report in which it is set out, *Boosting Jobs and Incomes*, the main concern of the Jobs Strategy lies in reducing dependency and simply getting bodies into jobs. However, if jobs are linked to social objectives and social justice, the task is not to create just any jobs, but "good" jobs — that is, jobs that are not only marginally more attractive than social benefits (an outcome that can always be ensured simply by degrading the quality or level of welfare and other income replacement schemes) but that provide a measure of economic security, opportunity and control over the terms and conditions of work for workers.

(ii) *The Problem of Precarious Work*

One of the most distinctive features of the labour markets of the new economy is the erosion of the standard employment relationship[90] and the rise of various forms of flexible, contingent and unstable work. The rise of what is often referred to as "precarious" work[91] is a function of myriad intersecting transformations in the economic and social spheres: the feminization of labour[92] and other demographic shifts in the composition of labour markets; the vertical

90 The standard employment relationship encapsulates work under the following conditions: relatively long-term employment with regular hours until a defined "normal" retirement age, with wages and benefits adequate to sustain a male-breadwinner and his dependants both during and after employment.

91 J. Fudge & R. Owens, eds., *Precarious Work, Women, and the New Economy: The Challenge to Legal Norms* (Oxford: Hart Publishing, 2006).

92 G. Standing, "Global Feminization through Flexible Labor: A Theme Revisited" (1999), 27 World Development 583.