

# **Labour Flexibility and the Ethical Responsibility of Businesses**

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## **Abstract**

*This article seeks to examine labour flexibility within the context of the ethical and social responsibilities of businesses. Our aim is to find out what bases there are for businesses and organisations to claim moral and ethical responsibilities as they implement flexible employment policies. The article shall define labour flexibility and examine the implications of the different flexible employment contracts for stakeholders namely organisations and employees. The problem of ethics and the difficulty of using ethical arguments in determining right and wrong decisions shall be highlighted. Consequently the article shall use normative ethics which incorporates approaches such as the utilitarian approach, justice approach, moral or natural right approach and individualism approach as the bases to evaluate the ethical dimensions of labour flexibility.*

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## **Introduction**

Flexibility is used in a number of different contexts, both in the world of work and in the political arena. It is advocated by some political leaders, business gurus, and employers as the necessary condition for the survival of an entity in a fast-moving world of growing competition. At its broadest, it is perhaps best understood as the quality by which an entity adapts itself to a change in the demand made upon it. The appeal of flexibility as a concept can also be seen by a consideration of its opposites; inflexibility, rigidity etc, all of which carry a quite negative connotation (Proctor and Ackroyd, 2006). Similarly, (Taylor, 2002) sees flexibility as the quality of an organisation which is able to respond to and embrace change. Many management practitioners and organisational theorists have also attempted to “capture” the meaning and the importance of flexibility in coherent models; flexible specialisation by (Piore and Sable, 1984), Disorganised Capitalism by (Lash and Urry, 1987), and Differentiated Organisation by (Clegg, 1990).

Flexible specialisation is the term given to efforts ‘to convert the traditional highly integrated, corporate structure into a more supple organisational form capable of responding quickly to shifting market conditions and product demand’ (Piore and Sable, 1986). (Piore and Sable, 1986) argue that contemporary economic conditions have created a “second industrial divide”. Here, increased demand for customised quality goods prevents the economies of scale achieved under mass production and mass consumption. Hence the rigid “Fordist” system of production, since it is not capable of permanent innovation, is no longer appropriate in this environment. They further assert that wider developments in the international political economy towards an unstable and uncertain

world order, saturation of mass markets, and technological changes are forcing corporate managers to consider alternative forms of organisation that promote flexibility.

To (Piore and Stable, 1986) the most successful economies in the emerging world order will be those characterised by flexible specialisation, namely the ability to produce a differentiated product range geared to satisfying niche markets, flexible use of technologies that can be adapted to changed market conditions and the creation of regionally-based institutions that create and control co-operation and competition between local firms.

On their part, (Lash and Urry, 1987) maintain that societies are entering a new phase of development that breaks with established bureaucratic structures and control mechanisms. This represents, they argue, a movement from “organised” to “disorganised” capitalism. (Lash and Urry, 1987) further argue that organised capitalism began to reduce in importance from the 1970s and “disorganised capitalism” is marked by smaller organisational units with flexible structures that facilitate decentralised management control. They suggest that this shift is occurring for three interrelated reasons.

Firstly, the development of new forms of economic organisation derived from trans-national corporations using international labour. However, whilst there is global concentration through multinationals, there is fragmentation at the national level as national companies are increasingly at the mercy of international organisations. Secondly, societies are seen as increasingly decentralised, individualistic and culturally pluralistic. This movement has a fragmenting effect on national politics. Corporatism, the existence of centralised formal relationships between the state, business and trade unions, is now regarded as an inappropriate form of mediation and regulation in the context of fragmentation. Lastly, the growing importance of the service sector reinforces the existing trend towards fluid and flexible structures. The service class, it is argued, is primarily motivated by individual career enhancement rather than collective mobilisation through trade unions.

Finally, (Clegg, 1990) synthesises many of the preceding arguments to highlight two key changes in contemporary or modern organisations. First is a movement from specialisation and strict division of labour towards forms of organisations based on trust and commitment. The second change proposed by (Clegg, 1990) is “flexibility” – a shift away from forms or organisation based on mass consumption and rigid control structures towards more organic forms able to accommodate changing environmental conditions.

### **Types of Flexibility**

Underlying the different organisational forms put forwards by organisational theorists is the concept of flexibility which, in the business environment, translates into flexibility of labour, flexibility of technology, flexibility of organisation and flexibility of systems. Flexibility of technology refers to both the range of things that technology can do and the ease with which technology can be moved from one process to another. Flexibility of organisation included the flexibility of both labour and technology, but refers to the more general ability of organisations to adapt themselves to the demands made upon

them. Flexibility of systems at a broader level refers to the ease with systems – (institutions and conditions within which organisations operate) change or adapt to changes. A system might thus be a national economy, a region, European Union, International monetary Fund, The World Bank etc.

### **Flexibility of labour**

Among all the other forms of flexibility, flexibility of labour is perhaps the most important. This is because labour is the main route through which the other flexibilities; systems, technology or organisation are achieved. In the period since the early 1980s however, debates on the flexibility of labour have centred on the model of the flexible firm. Put forward by John Atkinson and others; (Atkinson, 1984), (Atkin and Meager, 1986), (NEDO, 1986) the model argues that the flexible firm (by which Atkinson means one that is competitive in the modern business environment) is composed of three basic groups of employees: core workers, peripheral workers and a third group who are employed only on some kind of subcontracted basis. Central to the model are two distinct types of flexibility associated with the three tiers of employees: functional flexibility and numerical flexibility.

Functional flexibility is applied to specially to the core workers – that is, people who are employed on standard, permanent, full-time contracts and who undertake the tasks that are central to the success of the organisation. They are functionally flexible, in that they do not work to rigid job descriptions but carry out a broad range of duties. Moreover, they do not restrict their activities to work of a particular level. Instead, they carry out complex tasks associated with managerial or professional jobs as well as more mundane activities, depending on the day-to-day needs of the organisation.

Numerical flexibility is principally intended to be promoted among the peripheral workforce. The central contention is that employers seeking flexibility should employ people on different forms of “atypical contract” so that they can deploy people where they are most needed and at the times when they are needed.

### **Modes of achieving numerical flexibility**

Numerical flexibility is thus achieved through methods such as subcontracting, self-employment, temporary contracts, part-time working, home working, franchising, and agency workers

#### **Part-time contracts**

Part-time working is by far the most common form of atypical working. In the UK around a quarter of the workforce are part-timers, 80 percent of these being women (DFEE 2000). Within certain sectors, the figures are far higher. According to (Marsh, 1991), 41 percent of all hotel and catering employees are women who work part-time, the figure for the health and education sectors are 51 percent and 47 percent respectively.

#### **Temporary contracts**

The term “temporary worker” covers a variety of situations. On one occasion, there are workers who are employed for a fixed term or on a seasonal basis to carry out a specific job or task. A second group are people who are employed temporarily but for an indefinite period. They are employed until such a time as a particular project or body of work is completed. A third category includes temporary agency workers who are employed via a third party to cover short-term needs.

#### **Subcontractors**

Subcontracting comes in two forms: self employment, and outsourcing. Self employment involves the use by employers of consultants and other self-employed people such as design engineers, engineers, and computer experts, to undertake specific specialised work. Such arrangements can be long-term in nature, but more frequently involve hiring someone on a one-off basis to work on a single project. Outsourcing occurs when a substantial body of work, such as the provision of catering, cleaning, building maintenance, transport of document and goods, or security services, is subcontracted to a separate company. Such a company is deemed better placed to provide the service. Another form of outsourcing, as shown by (Kakabadse and kakabadse, 2002) takes the form of franchising or joint ventures whereby a supplier takes over the running of core business activities.

From the surface it could be seen that there are many advantage that organisations can enjoy for flexible work practices. These advantages demonstrated in cost savings, efficient and effective utilisation of resource, and maintaining of core competence are, according to advocates of flexibility, what organisations need in order to compete and survive in a post-industrial world. Labour flexibility enables organisations to reduce cost dramatically by making sure that people are hired only when required for work. It enables organisations to enjoy the services of specialist skills at lower cost. Organisations also enjoy a lot of cost savings as they pass on the management and all responsibility for achieving the quality standards of services required to the contracted suppliers. This arises because of the economies of scale that are achieved by the providers of the outsourced services and which, according to (Kakabadse and Kakabadse, 2002) is the

most common reason that organisations give for considering outsourcing existing activities.

### **Matching and maintaining staffing levels**

Flexible labour practices enables an organisation to cover gaps created by full-time employees who absent themselves for reasons such as maternity leave, sick leave and annual holidays. This ensures that organisations can keep to their stated production targets. Labour flexibility also ensures that organisations match staffing level to peaks and trough in demand.(Abraham, 1988, 1990), (Cohan, 1996). Labour flexibility also allows organisations to take advantage of the specialised skills of consultants without having to spend on their training. Employing different flexible contracts enables organisations to focus on their “core activities” that are a source of competitive advantage. Outsourcing, for example frees, the organisation to throw all its energy into seeking and maintaining competitive advantage over its rivals (Stredwick and Ellis, 1998). Freedman (1992) cites increased competition and profit maximisation as factors that have led to increased use of flexible staffing arrangements by businesses. When the future of an organisation is bleak, it is also useful to be able to draw on the services of temporary staff to cover basic tasks. This does not only free permanent employees who are under threat of redundancy to spend time seeking new jobs, but to the organisation too it makes a lot of sense for after all it is easier not to renew a fixed-term contract than it is to make permanent employees redundant.

### **Implications for employees**

Labour flexibility may be the key to survival for organisations in a competitive market environment. However, to employees, it is a source of many problems and inconveniencies. In the first place, job contracts under labour flexibility are characterised by limited time spans and dependent on job availability. This creates a situation of job insecurity and its associated problems for employees. “Flexibility abused”, – A Citizen Advice Bureau (CAB) report on employment conditions in the labour market and published by the national Association of Citizen Advice Bureau documents the experience of job insecurity of its clients (workers) under a variety of flexible work patterns. The (NACAB,1997) report also shows how this uncertainty leaves many employees without the security of an adequate income and makes other arrangements such as additional work or claiming benefit all but impossible.

Secondly, it remains the case that employees on various flexible contracts receive in relative terms fewer wage than their permanent counterparts. At the lowest pay level, part-timers for example often earn less than the lower national insurance threshold; the implication being that employers do not have to pay contributions when these workers are appointed. For many employees, flexibility also means withdrawal of employers from their legal responsibilities towards their employees as well those associated with employment relationship.

It is undeniable that the nature of contracts under labour flexibility does not give room for employees to join trade unions and participate in their activities. In comparing the

employment systems in union and non-union firms, (Rubery, 1987) concluded, among others, that employees in flexible non-union firms, who are often treated as individuals without recourse to the protection of unions and collective bargaining, become vulnerable to exploitation and intimidation from employers.

Similarly, "Organisational change, labour flexibility and the contract of employment" (a ESRC Centre for Business research, University of Cambridge working paper No 105) reports the finding of an empirical study on the effects upon contracts of employment of organisational change at enterprise level. Apart from union derecognition, the study reported a gross abuse of the individualised employment contracts which were supposed to replace collective bargaining contracts. From a survey of over 30 organisations and carried out in Britain between 1995 and 1997, the study revealed that individualised employment contracts were not arrived at through individualised bargaining, but rather through employers' standardised contract terms which were, on the whole, vague about pay, but detailed and specific on terms concerning hours and job duties. A further feature, according to the study, of these contracts was the use of "waiver" clauses and similar devices aimed at reserving to employers the discretion in the implementation of appraisal procedures and the right to unilaterally alter terms governing hours and duties.

Thirdly, employees under flexible working contracts suffer from inequality of treatment in legal terms. (NACAB,1997) study found that it was common for workers in flexible hours contract to be denied basic benefits and entitlements enjoyed by other workers, such as sick pay, holiday pay and for access to pension schemes. Part-timers have to wait in some cases for five years before they are entitled to bring cases of unfair dismissal to employment tribunals. The (NACAB,1997) report also shows how some employers use individualised employment contracts and individualised bargaining as a means of minimising their legal obligations towards their workforce. Workers through such instruments are denied their right to redundancy payments and protection against unfair dismissal.

### **Labour flexibility and the ethical dilemma**

Organisations have a responsibility to be ethical. In the first instance, organisations should promote not only their interests but that of other stakeholders as well. An evaluation of the different flexible contracts however point to the fact that even though labour flexibility may be beneficial to organisations, it could have harmful consequences on employees.

Secondly, the operations of organisations should not only be legally right but morally as well. This is because ethics sets the standards as to what is good or bad in conduct and decision making (Shea, 1988) and (Trevino, 1986) and negates the often held view that "if it is not illegal, it must be ethical" (Malingier, 1997). The difficulty however lies in determining what is "right" or "wrong", "good" or "bad". This is because in the absence of a universally agreed system of ethics, cultural relativism applies in ethical situations. Morality therefore becomes relative to a particular community or culture.



There is therefore no basis for accepting some culturally based moral codes as superior or inferior to others.

From this perspective it could be said that the implementation of labour flexibility could constitute an ethical dilemma; a situation when each alternative choice or behaviour is considered undesirable because of potentially harmful consequences and where right or wrong cannot be clearly identified (Daft, 2003). The dilemma will make it difficult for policy makers and organisations to determine with certainty their ethical commitment and whether labour flexibility could be defended morally.

### **Way out of the dilemma - Normative Ethics**

Caught in an ethical dilemma, managers and organisations, often benefit from a normative approach to guide them in making tough ethical choices. With a theoretical framework based on norms and values, normative ethics uses several approaches to describe values for guiding and determining ethical decision making and behaviour. Four of these, which are relevant to managers and organisations, are the utilitarian approach, individualism approach, and the justice approach. (Cavanagh et al, 1981)

### **Utilitarian approach and Labour Flexibility**

Espoused by the 19<sup>th</sup> century philosophers Jeremy Bentham and John Stuart Mills, the utilitarian approach holds that a moral behaviour is the one that produces the greatest good for the greatest number. Under this approach, a decision maker is expected to consider the effect of each decision alternative on all parties and select the one that optimises the satisfaction for the greatest number of people. In the business environment, the utilitarian approach also gives grounds for the argument that the collapse of an organisation would always be more expensive to all stakeholders than the cost they would have to bear for its turn around. In such a case, any turn around strategies would therefore be morally an ethically justified as they are the lesser of two evils.

From this perspective, it could be argued that the labour flexibility, in spite of its seemingly negative impact on employees, could be morally and ethically justified. The justification lies in the fact that the survival and prosperity of an organisation, according to the stakeholder model, is for the greater good of all stakeholders. This survival and prosperity would however require that organisations continuously adapt to new situations which include labour flexibility. The alternative is to ignore the changing realities of business and collapse to the peril of all stakeholders including employees. Labour flexibility should therefore be seen as a "necessary evil" for the survival and prosperity of organisations.

### **Justice Approach and Labour Flexibility**

The justice approach, upon which most of the elements of HRM are based, holds that ethically and morally right business decisions must be based on standards of equity, fairness, and impartiality. The justice approach distinguishes between distributive justice, procedural justice, and compensatory justice. The distributive justice requires that treating people differently must be based on rational rather than arbitrary characteristics.

Individuals, who are similar in respects relevant to a decision, should be treated similarly. Consequently, people who differ in a substantial way such as job skills or job responsibilities can be treated differently in proportion to their differences.

In labour flexibility, individual employees come with different competences and perform different roles under different contract terms. Pay and other employment costs are used to support the objectives of functional and numerical flexibility. Fairness is therefore assured through individual performance-related pay, competence-related pay, and the link of rewards and career progression to individual appraisal. Under individual performance-related pay (IPRP), an individual employee is paid or receives increases in pay based wholly or partly on the regular and systematic assessment of job performance. Performance-related pay therefore undermines the notion of a specific "rate for a job" and signifies a movement away from collective bargaining or negotiation. There is also a strong thread of felt-fairness about IPRP. Most employees (Kessler, 1994) agree with the principle of IPRP: that the able and industrious employee should be rewarded more generously for that ability and industry than the idle and incompetent.

On the other hand, competence-related pay is a "method of rewarding people wholly or partly by reference to the level of competence they demonstrate in carrying out their roles (Armstrong, 2002). In this way, individual employees could be paid differently depending on their ability to perform different tasks. Procedural justice demands that rules be stated clearly and enforced impartially and that individuals must give informed consent to such rules. It can thus be argued that organisations would be acting morally and ethically once the terms and conditions of employment are made known to employees and employees consent to these out of their free will. This condition applies under labour flexibility where employees are made aware of the type as well as the terms of labour contract under which they are being employed. Prospective employees thus have the exercise of free will and the right of consent.

Compensatory justice requires that individuals be compensated for any injuries by the party responsible but that individuals should not be held responsible for matters over which they have no control. In this vein, companies and organisation can be ethical if they incorporate compensatory packages for stakeholders; namely full-time employees who may suffer unduly as a result of an organisation's decision to revert to the use of different forms of labour flexibility. Individualism Approach contends that acts are moral when they promote the individual's best long-term interests. Individual self-direction is paramount, and external forces that restrict self-direction should be severely limited (Kekes, 1988). From this perspective it can be argued that both numerical flexibility and functional flexibility promote the long-term interest of individuals; employees. This is manifested in the freedom that labour flexibility guarantees employees in making choices as to when, where and how to work; choices that are motivated by individual long-term aspirations and interests.

Female employees take up flexible working patterns as a result of the right to maternity leave in recent years. (Mcgregor, and Sproull, 1992) Retired people, students in full-time education enjoy the benefit of labour flexibility as they work to either top up their pensions or continue their education. In the computer industry for example, people



with expertise in particular programs or operations take up “self-employed” contracts in order to earn more while keeping control of their own working lives.

## **Conclusion**

Labour flexibility is the new thinking in labour relations. It is however important for organisations to accept that there are limits to functional flexibility. In many organisations, it is neither practicable nor desirable for everyone to be able to carry out everyone else’s job. Functional and numerical flexibility must be introduced within reasonably defined parameters and with due recognition of employees basic human rights. It can also be said that within the context of the flexible firm model, flexibility is defined from the point of view of those who run and own organisations. In terms of the employment relationship, it is flexibility for the employer, which, in all likelihood, is likely to mean “flexibility” for the employee. However, the fact that the interests of employees and employers will not always coincide means that from the point of view of the employees, flexibility cannot unequivocally be seen as a good thing.

This brings to fore the ethical dilemma created by labour flexibility and for which ethics, ethical arguments and normative approaches only provide guidelines for decision making but fail to determine in any concrete manner, the rightness or the wrongness of a particular choice. Perhaps it is time we assessed the ethical responsibility of an organisation from a different perspective; the specific personality and behavioural traits of managers as well as the culture of an organisation. This is because ethical or unethical business practices usually reflect the values, attitudes, beliefs, and behaviour patterns of the organisational culture; thus ethics is as much an organisational as a personal issue. (Paine, 1994)

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