
A Gender Perspective on Flexicurity and the Swedish Employment Protection Act

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Introduction

Full employment is an important labour policy goal for both Sweden and the European Union, of which Sweden has been a member since 1995. The ideas, values and assumptions expressed in European employment policy affect the norms in the Swedish labour market. ‘Flexicurity’ is the name given in the EU to the strategy designed to help the Community achieve its employment objectives by increasing the flexibility and security of the labour market.¹ In Sweden the law contributes to this objective by providing workers with protection in existing employment under the Swedish Employment Protection Act (SEPA).²

SEPA is based on stability, where the employment contract is seen as a personal and long-term relationship between employer and employee involving mutual loyalty. By contrast, the dominant discourse of flexicurity is changing.³ Employees are not expected to have lifelong employment with a single employer, but instead, to be prepared for changes in employment status during their working career.

This paper argues that both SEPA and flexicurity are based on an approach that is more favourable to men than women. The lack of gender analysis in the construction of the substance of SEPA and flexicurity tends to exclude women to a greater extent than men from

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¹ COM (2007) 359 final, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, *Towards Common Principles of Flexicurity: More and Better Jobs Through Flexibility and Security*, {SEC(2007)861}, {SEC(2007)862}. Wilthagen and Tros argue that flexicurity first and foremost is a policy concept or policy strategy and should be studied as such; see Wilthagen, Tros, “The Concept of ‘Flexicurity’: A New Approach to Regulating Employment and Labour Markets”, p. 172.

² In this paper I use SEPA as an acronym for the Swedish Employment Protection Act.

³ The text analysis of flexicurity is based on COM (2007) 359 final, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, *Towards Common Principles of Flexicurity: More and Better Jobs Through Flexibility and Security*, {SEC(2007)861}, {SEC(2007)862}.

the opportunity to obtain employment security.

The Swedish Employment Protection Act

The policy objective of full employment and the risk of excluding some categories of employees were important factors in the establishment of the Swedish Employment Protection Act in 1974 (SEPA). The origin of this law is related to structural transformations in the 1960s and 1970s. Falling levels of production were affecting growing numbers of employees and statistical analysis of unemployment showed a trend towards longer periods out of work. The shutting down of companies caused some sections of the workforce to be excluded from the labour market, notably older employees, women and people with insufficient qualifications. Opinion was that this situation was due to the way the market economy worked. The development had been driven by business decisions made with a view to maximising return on invested capital. This, among other things, implied that employers were simply choosing to replace some workers with others they believed to be more skilled and productive. The view expressed in the 1973 report of preparatory work, was that business economic thinking did not give enough consideration to high and uniform employment, nor to meaningful tasks or job security for employees. The political objectives were, and still are, to use all the productive capacity in society, and it was thought neither socially acceptable nor economically reasonable for so many people still of active working age to be excluded.⁴

Job security under SEPA applies to existing employment. The law aims to protect groups of employees who appear to have low employability in the labour market, if they should lose their jobs due to shortage of work or for personal reasons. One feature of SEPA is that employers are expected to take a degree of social responsibility for the people they employ. Likewise, employees are expected to use all their education, experience, skills and personal qualities in a way that is best for the employer. In the event of conflict, employees are obliged to put the employer's interests before their own and avoid situations where their personal duty may collide with their duty as an employee.⁵

⁴ Prop. 1973:129 pp.18–24 and pp. 109–110.

⁵ The Labour Court 1994 no. 79.

Job security under the law

SEPA is constructed as peremptory legislation, but, in line with the Nordic model, some of its constituent rules are semi-discretionary. The law can be considered to have four core elements:

1. The contract of employment is to be for permanent employment (§4 SEPA). This means that the normal form of employment on the Swedish labour market will be seen as a permanent agreement.
2. The employer must have just cause for termination (§7 SEPA). Redundancy is considered just cause for terminating employment. Normally the Labour Court will not question an employer's decision of redundancy. In order for termination by reason of redundancy to be regarded as just cause the employer must have examined whether it was possible to transfer the employee to some other vacant job within the employer's operations. However, in order to get the new job the worker must have *sufficient qualifications* to perform the work.
3. The employer must comply with a specified order of selection for termination when a choice among employees is made (§22 SEPA). In establishing this order an employer with fewer than ten employees may exempt two persons whom the employer considers to be of particular importance to the continuing operations. The employer's decision cannot be reviewed.

The position of individual employees regarding the order of selection if there is a shortage of work is determined on the basis of length of service with the employer, that is, the principle of 'last in first out'. However, a requirement for employees with longer length of service to retain a job is that they have *sufficient qualifications* for the job.

This rule is semi-discretionary. The employer and the trade union can within broad limits make collective agreements on the order of selection for termination that deviate from the law.⁶ The legislation does not give an individual employee, regardless of length of service,

⁶ National research shows that women, although they have almost the same length of service as men, are terminated from employment to a greater extent than men. Older employees, part-time workers and employees who have a high absence risk are placed less favourably in the order of selection; see Calleman, Kvinnors

the right to claim a special position in the order of selection for dismissal. In principle, the only restrictions are that the collective agreement must not be discriminatory, be intended to terminate unorganized employees employment, or go against good custom in the labour market.⁷

4. Employees who have lost their jobs due to a shortage of work have the right to be prioritized in future re-employments (§25 SEPA). This right is based on length of service, so that employees with longer length of service and *sufficient qualifications* will be offered employment first.

This regulation also means that the employer and the trade union, before an employee has lost his/her job due to shortage of work, can make an agreement that includes certain conditions which have to be met if he/she is to be re-employed. This might suggest that a long length of service does not have to be the conclusive criterion for being re-employed. The social partners may, for instance, decide that a certain education will give priority regarding the right to be re-employed.

The Employment Protection Act and security for women

The labour market analysis performed in connection with the drafting of SEPA showed that women constituted a group of workers who had difficulties finding a job after dismissal by reason of redundancy.⁸ A thorough investigation designed to deal with the more vulnerable employees affected by the new law, women in particular, was, however, never carried out. SEPA has been the subject of a number of amendments over the years, but these changes have not involved scrutiny of the position of women in the labour market.

Today, women are regarded as an equally integral part of the workforce as men and are no longer considered a reserve force employed only during periods of economic boom. Sweden has an anti-discrimination law intended to promote equitable conditions in the labour market for women and men, counteract a gender segregated labour market and create better

anställningsskydd [Women's employment protection], p. 129.

⁷ This is grounded on a notion about collective responsibility and solidarity; see Wennberg, "Constructions of Normality and the Boundaries of Social Citizenship – Solo Mothers in the Swedish Welfare Model", in this issue.

⁸ Prop. 1973:129 pp. 18–24.

conditions for both women and men to combine work and family life. These norms also apply in European employment policy.

The basic construction of the four areas that constitute the core of the current law remains essentially unchanged from SEPA of 1974. One difference between the law as it stands and that of 1974 is that the present law gives employers a greater possibility to employ people under fixed-term contracts. Against the background of the norms of equality it is important to analyse what impact the constructions of the core areas of the law have for women's opportunities to obtain employment security.

Permanent employment – the normal form of employment

SEPA §4 assumes that employment contracts are valid, permanent agreements. This expresses the political will that permanent employment should be the normal form of employment in the Swedish labour market. Workers with this type of contract usually have greater employment security than workers with temporary contracts.

One of the amendments to SEPA implies that employers have been given greater opportunities to make contracts for fixed-term employment. An employer may institute temporary employment in the case of temporary replacement work, seasonal employment, when workers are older than 67 (obtain superannuation), and for so-called 'general temporary employment'. The employer may however independently make decisions about general temporary employment and is not required to state the reasons for the decision. In order to prevent abuse of these contracts the law contains a conversion rule. The rule states that if an employee has been employed as a temporary replacement worker or general temporary employee for a total of more than two years during a period of five years, his or her employment must be converted into a permanent appointment.⁹

One consequence of the law's design is that a worker may be variously employed as a

⁹ This regulation was based on the assumption that more flexible solutions were needed in order to create growth; Ministry Publications Series 2002:56, pp. 55–58. There was an increase in precarious work in the last few decades of the twentieth century. 'Precarious' in this context means work that departs from the normative model of a full-time, year-round employment relationship of indefinite duration with a single employer. Fudge and Owens's hypothesis is that the rise and spread of precarious work is gendered and challenges existing legal norms of employment and regimes of labour regulation; see Fudge, Owens, *Precarious Work*, "Women, and the New Economy: The Challenge to Legal Norms", p. 3.

substitute for two years, in general fixed-term employment for two years, and for different periods in a seasonal capacity, as well as on probationary terms for six months. Theoretically, an employee may thus be employed in the same position, with the same employer and at the same workplace for well over four years without obtaining permanent status.

The Swedish labour market is distinctly gender segregated. In general the female-dominated areas are social services, nursing and education while the male-dominated areas are manufacturing and extraction industries, construction and transport.¹⁰ The social services and nursing jobs are mostly in the public sector.¹¹ Women's employment is equally divided between the public and private sectors, while men mostly work in the private sector.¹² Women are more likely than men to have fixed-term employment, and more women than men work part time.¹³ In 2009, 66% of all employed women between the ages of 20 and 64 worked full time and 34% worked part-time. The corresponding figures for men were 89% and 11% respectively.¹⁴

Although SEPA states that permanent employment should be the normal form of employment and supports full time work, in practice this does not apply to women to the same degree as to men. Temporary employees work part-time to a larger extent than permanently employed workers and a high proportion of part-time employees would prefer a full-time appointment.¹⁵ Fixed-term employees run considerably higher risk of unemployment than permanent workers. In general, temporary employment leads to permanent employment to a greater degree in the private sector compared to the public sector.¹⁶ Hunter observes that the gender segregation of the labour market continues to place women and men in different kinds of casual jobs and, in particular, to place women far more often in part-time casual jobs. Traditionally, casual workers have not been entitled to annual

¹⁰ Statistics Sweden (SCB), *På tal om kvinnor och män. Lathund om jämställdhet 2010*, p. 58.

¹¹ Statistics Sweden, *Registerbaserad arbetsmarknadsstatistik (RAMS)*.

¹² Statistics Sweden, *På tal om kvinnor och män. Lathund om jämställdhet 2010*, p. 54.

¹³ Regeringens skrivelse 2009/10:34 *Sveriges handlingsprogram för tillväxt och sysselsättning – uppföljningsrapport 2009*, pp. 54–55. See also Statistics Sweden, *På tal om kvinnor och män. Lathund om jämställdhet 2010*, p. 51. In all EU Member States, the proportion of employees in temporary contracts was higher for women than for men; Ashiagbor, "Promoting Precariousness? The Response of EU Employment Policies to Precarious Work", pp. 81–82.

¹⁴ Statistics Sweden, *På tal om kvinnor och män. Lathund om jämställdhet 2010*, p. 50.

¹⁵ Prop. 1996/97:16 pp. 44–45.

¹⁶ Håkansson, *Språngbräda eller segmentering*, pp. 38–39.

leave, sick leave, benefits or the protection available to permanent employees.¹⁷ Women with temporary contracts are also much less often transferred to permanent employment than are men, with women instead tending to move between different types of temporary contracts which replace each other. Among manual and white-collar workers, men with temporary employment establish themselves on the labour market to a greater extent than women with the same type of contract.¹⁸ Also, as Ashiagbor argues, employees on fixed-terms contracts tend to suffer from discrimination regarding pay and pensions and have fewer opportunities to improve their career prospects.¹⁹ So, the fact that it is women who predominantly hold fixed-term jobs means that they have worse employment security than men over a longer period of their working life.

The rule of order of selection

Some companies in Sweden actively work to promote better gender balance at work by deliberately recruiting the under-represented gender when employing new staff. This provides an opportunity for breaking male dominance among workers in the highest paid sectors. Upon termination due to redundancy, however, the gains achieved in terms of breaking gender segregation are lost due to the rule of order of selection. Employers and trade unions will not make collective agreements that particularly benefit the under-represented gender when determining an order of selection. Local social partners are dependent in the long term on the loyalty of the majority of the remaining employees in the workplace, so the agreements the parties make must be supported or at least accepted by the workers as a collective, that is, by the men. Moreover, a local collective agreement that benefits women in certain redundancy situations could be challenged by men under current anti-discrimination law.

One consequence of the gender segregated labour market and the lack of gender aspects in SEPA is that women in redundancy situations have their jobs terminated in the higher-paid competitive export industries, because they generally have a shorter length of service than

¹⁷ Hunter, "The Legal Production of Precarious Work", pp. 285–286.

¹⁸ Håkansson, *Språngbräda eller segmentering*, pp. 38–39, p. 48 and p. 54. It also seems to be more difficult for fixed-termed employees to combine work with parenting: Julén Votinius, *Föräldrar i arbete*, pp. 384–385.

¹⁹ Ashiagbor, "Promoting Precariousness? The Response of EU Employment Policies to Precarious Work", p. 82.

men in this male-dominated sector. As shown above, SEPA provides greater security for workers with longer length of service. This in turn contributes to maintaining the gender segregated labour market.

The priority right to re-employment

An employer who intends to create a new job is required to offer the new appointment to a redundant employee who has a priority right to re-employment, provided the employee is qualified for the new job. Another condition is that the preferred employee is actually able to take up the employment when the employer wants. An employer has no obligation to appoint a substitute for any extended period while a preferred employee's access is pending. Hence, under current law, the employer's interest takes precedence in a situation where the employer requires the employee to begin working without delay. The government committee of inquiry of 2002 determined that workers with priority rights to re-employment should be afforded time to arrange childcare and other practical issues before starting work, with the length of this period best decided according to the circumstances in each case.²⁰ The employer's interests have however been assigned more weight in situations where an offer of employment must be accepted immediately, even though the former employee with a priority right is prevented from doing so.²¹ Yet the inquiry did not clarify whether employees made redundant due to shortage of work are permitted to use the full term of parental leave to which they are entitled, if they are offered a job on the basis of their priority right to be re-employed.²²

Where a permanent employee who is on parental leave is selected for termination due to shortage of work, the notice period during which they have the right to be re-employed will not start until they have finished their parental leave. Temporary employees, by contrast, have no protection for the preservation of their re-employment rights during their parental leave, and so the nine months following the end of employment during which the right to be re-employed exists, may expire during parental leave. Therefore, an employee who has a

²⁰ Ministry Publications Series 2002:56 p. 477.

²¹ Prop. 1973:129 p. 168.

²² In an empirical investigation from 2002, 4% of employers stated that an employee with a priority right to re-employment was not re-employed because the employee could not take up the job because he or she was on parental leave. The corresponding figure for employees working in fixed-term employment before their parental leave was 10%: Ulander-Wänman, *Företrädesrätt till återanställning*, p. 303.

priority right to be re-employed, but who has been temporarily employed and is on parental leave at the time of termination, may actually lose his or her priority right to be re-employed during the time of parental leave.

Since it is mostly women who are temporary employees and who are on parental leave in direct proximity to childbirth, it is they who primarily run the risk of being prevented from taking advantage of their priority right to be re-employed due to parental leave.²³

Employee qualifications and job security

A key factor in a worker's security in connection with termination by reason of redundancy is his or her qualifications. The requirement that employees must have sufficient qualifications to undertake further work can be identified in three core paragraphs of SEPA. The worker's skills and competences may also impact their chances of being transferred to a vacant job. The rules of priority right to re-employment also require the employee to be qualified for re-employment.

In principle, SEPA requires employers to develop the skills of their employees, but it puts no obligation on employers to educate every worker to a specific extent, to a certain level, or according to a particular focus. Nor are there general collective agreements in either the private or the public sector that oblige employers to provide training for every worker or require workers to engage in skills development. Accordingly, Swedish employers largely take independent decisions about whether workers should be provided training and what fields of knowledge should be developed in employees. Unsurprisingly, the European Commission found that those with the greatest need for learning, such as workers on temporary contracts, suffer the most from underinvestment in training.²⁴

In more frequently combining work with family life, women take parental leave more often than men, tend to stay at home to care for children and elderly relatives, work part-time disproportionately more than men and spend more time on housework than men.²⁵ These

²³ The majority of those who utilise parental leave through parental insurance are women; Ministry Publications Series 2002:56 p. 206.

²⁴ COM (2007) 359 final, *Towards Common Principles of Flexicurity*, p. 3.

²⁵ Regeringens skrivelse 2009/10:34 *Sveriges handlingsprogram för tillväxt och sysselsättning* –

factors probably affect women's status and skills development, because women will tend to receive less skills development during employment. The ultimate consequence of this is that it is more difficult for women to compete with men for employment when there is a shortage of work.

The flexicurity strategy

A high level of employment is one of the goals of the EU, and Member States are supposed to promote coordination of their state employment policies through a general employment strategy.²⁶ This means that each individual employee has to become more productive over a longer period, has to be able to adapt to changes in the labour market and to achieve higher competency at work. The guidelines for Member State employment policies make it clear that Member States should promote flexibility in combination with security and reduce segmentation in the labour market.²⁷ The individual's right to a job is based on employment security rather than job security, as current opinion is that fewer employees have the same job for the whole of their working lives.²⁸ The integrated strategy, which means that both flexibility and security must increase on the labour market, is called *flexicurity*.²⁹

Flexicurity and employment security

As the terms suggests, 'flexicurity' means that both enterprises and employees have to be more flexible. Companies need to adjust their workforce according to changed economic situations. So it must be easier for enterprises to dismiss employees and to recruit workers who better meet requirements for competences and are more productive.³⁰ This may also involve flexible employment contracts. Owens considers flexibility to have taken a particularly gendered form, with men, in contrast to women, not generally availing themselves of "family-friendly flexibility provisions, for example taking unpaid breaks from

uppföljningsrapport 2009, pp. 54–55 and Statistics Sweden, *Tidsanvändningsundersökningen 2000/01*.

²⁶ See 2010/707/EU: Council Decision of 21 October 2010 on Guidelines for the employment policies of the Member States.

²⁷ Rosemary Owens argues that there is a neoliberal agenda in Australia and I contend there is also a neoliberal discourse in the EU. Owens posits the neoliberal discourse on flexibility is presented as necessary for successful participation in the new economy; Owens, "Engendering Flexibility in a World of Precarious Work", p. 337.

²⁸ COM (2007) 359 final. *Towards Common Principles of Flexicurity*, p. 3.

²⁹ COM (2007) 359 final. *Towards Common Principles of Flexicurity*.

³⁰ COM (2007) 359 final. *Towards Common Principles of Flexicurity*, p. 3.

the workplace or reducing their hours of work”.³¹

It has been suggested to the Commission that employment contracts could be built up gradually with an employee reaching full job protection after a longer length of service and achieving enhanced job competence.³² However, the idea of flexibility challenges the characterisation of a job as a long-term relationship of mutual loyalty between employer and employee. It results in non-standard workers frequently having relationships with more than one employer and the length of service with any one tending to be shorter.³³

Another important element of flexicurity is that employees must adapt to changed employment positions throughout their working life, for example from being employed to being unemployed, or moving from unemployment to education. In order to be maximally flexible an employee must have the optimum level of competency. They cannot be sure that higher skills in an existing job will imply employability and give them job and employment security. Nor can it be taken for granted that long length of service implies greater competency and leads to a stronger position for the employee in the labour market as a whole.

According to the flexicurity principle life-long learning is crucial to attaining job and employment security.³⁴ Full employment security conditions may depend on both the individual employee’s length of service and competence. One key idea in flexicurity is that employers and employees invest more in lifelong learning. The Commission gives some examples of how to increase incentives for workers by creating a system of individual knowledge accounts. These accounts make it possible for the employees to spend a certain amount of their working time and money on their personal development, in cooperation with their employers. Lifelong learning may also imply that it is necessary for employees to use their spare time to increase their competence.³⁵

Flexicurity means that, apart from employees having to adapt to changes in work situations and employment positions, it is necessary for them to be prepared for geographical mobility.

³¹ Owens, “Engendering Flexibility in a World of Precarious Work”, p. 339.

³² COM (2007) 359 final. *Towards Common Principles of Flexicurity*, p. 13.

³³ See Fredman, “Precarious Norms for Precarious Workers”, p. 188.

³⁴ COM (2007) 359 final. *Towards Common Principles of Flexicurity*, p. 16 and p. 18.

³⁵ COM (2007) 359 final. *Towards Common Principles of Flexicurity*, pp. 1–9, Annex I, p. 16.

Taking advantage of work possibilities in a wider perspective and far away within the EU means employees have to be moveable.³⁶

In flexicurity, individual employees are expected to take responsibility for their own employment security, and employers are expected to take independent responsibility for the enterprise's competitiveness. This differs from the idea of SEPA where employers and trade unions are seen as jointly responsible for the enterprise's competitiveness and employees' security.

Flexicurity and security for women

COM (2007) 359 determines that flexicurity should include measures to equalise the differences between women and men's positions in working life.³⁷ Despite this ambition, proposed measures taken on flexicurity are likely to have adverse impacts on women in particular. The need for flexibility in jobs and work organisations can lead to an increase in temporary and part-time employment. In both the Swedish and European labour markets, it is now mainly women who are in temporary employment and in part-time positions.³⁸

Lise Lotte Hansen considers flexicurity to be gender blind in practice even though the strategy focuses on weaker groups in society. She also believes it is important to be aware of how work-time flexibility and functional flexibility affect the effectiveness of the flexicurity model.³⁹ There is a risk that women will fill the precarious positions in the labour market if the norms of flexibility prevail.⁴⁰ This becomes particularly apparent if the proposal for new flexible employment contracts, which the Commission presents as a pathway, is implemented.⁴¹ A new design with open-ended contracts is suggested which contains only basic protection. Protection would build up progressively with job tenure until full protection is achieved. There is a risk that women will be given the least secure employment contracts

³⁶ 2005/600/EC, Council Decision of 12 July 2005 on Guidelines for the employment policies of the Member States, p. 5.

³⁷ COM (2007)359 final, *Towards Common Principles of Flexicurity*, p. 9.

³⁸ Opinion of the European and Social Committee on Employability and Entrepreneurship, "The role of civil society, the social partners and regional and local bodies from a gender perspective", p. 116.

³⁹ Hansen, "From Flexicurity to FlexArity", p. 91.

⁴⁰ Fredman argues that the precarious workforce is made up predominantly of women. Women's responsibility for childcare combined with pressure to contribute to household income leaves them with few options for paid work; Fredman, "Women at Work: The Broken Promise of Flexicurity", p. 300.

⁴¹ COM (2007) 359 final, *Towards Common Principles of Flexicurity*, Annex 1, p. 13.

and thus worse conditions of employment. There is also a danger that the unequal employment conditions in the construction of new open-ended employment contracts will be hidden because the form of employment is called permanent employment.⁴²

Flexicurity's reference to lifelong learning may imply that employees have to take responsibility for their own skills development in order to gain a permanent employment contract. It can be deduced from COM 2007 (359) that workers themselves also may be expected to bear some of the costs of lifelong learning, for example by investing their time.⁴³ Women generally take a greater responsibility for home, children and the elderly than men.⁴⁴ Statistical evidence suggests that women with children younger than seven years of age spend 43 hours per week on unpaid housework and 23.4 hours per week on paid work. Men in the same situation spend 26 hours per week on unpaid housework and 36.4 hours per week on paid work.⁴⁵

Providing the platform for online learning is an increasing trend in society. These courses are more flexible and offer the opportunity to work in parallel with studying at a distance from the seat of learning. This may imply that employees will have to use their spare time for learning to achieve employability more in the future than is the case now. There is however a risk that a development according to which employees are expected to use their spare time to gain new knowledge will offer women poorer opportunities than men. A woman who takes the greater part of responsibility for housework might have neither the time nor the energy to devote to improving her work skills in her spare time. Consequently, women have less scope to invest in learning during their leisure time than men. This can further hinder them in obtaining a permanent employment contract with full security and employability in the labour market as a whole.

The requirement under flexicurity that workers be geographically mobile may have different consequences for men and women in different EU countries. In Sweden, the competitive

⁴² The objective of modernising the welfare model disregards the disparate living conditions of women and men; see Wennberg, "Constructions of Normality and the Boundaries of Social Citizenship – Solo Mothers in the Swedish Welfare Model", in this issue.

⁴³ COM (2007) 359 final, *Towards Common Principles of Flexicurity*, p. 11.

⁴⁴ Regeringens skrivelse 2009/10:34 *Sveriges handlingsprogram för tillväxt och sysselsättning – uppföljningsrapport 2009*, p. 54. See also Statistics Sweden, *Tidsanvändningsundersökningen 2000/01*.

⁴⁵ Statistics Sweden, *Tidsanvändningsundersökningen 2000/01*.

export sector, mainly situated in private sector manufacturing industries, is the wage leader.⁴⁶ Here men constitute the majority of employees.⁴⁷ The nature of women's employment, part-time work and relatively lower wages, may influence which partner's job a family would prefer to prioritise if there was a conflict of interest in the family that impacted both the woman's and the man's employment.⁴⁸ In countries as geographically spread-out as Sweden, the demand for high mobility may have far-reaching consequences for workers and their families compared to countries where opportunities for daily commuting are greater. Because of the gender segregation of the labour market in Sweden and Europe as a whole,⁴⁹ women tend to occupy lower-paid positions.⁵⁰ The probability is that when workers need to relocate, it will be women with families and children who will leave their jobs to follow their men. Moreover, where a number of such relocations take place during their working lives, the chances of these women getting any sort of employment in the new locations may be seriously diminished.

Conclusions

The discourse surrounding the need of business to recruit the most productive and competent employees was live in Sweden long before the flexicurity strategy was developed. One purpose of SEPA was to provide security for workers in employment. This social consideration was to some extent at the expense of employers' interest in achieving the highest possible operational efficiency. If the employee is in permanent, full-time employment, has a long length of service, and possesses sufficient qualifications to continue working, the law can theoretically fulfil its objective of giving the employee security in his or her existing employment.

Today, employers' opportunities to meet labour requirements in flexible ways and employees' productivity and competences are considered critically important to corporate

⁴⁶ Karlsson, Lindberg, *En ny svensk modell*, p. 27 and p. 43.

⁴⁷ Regeringens skrivelse 2009/10:34 *Sveriges handlingsprogram för tillväxt och sysselsättning – uppföljningsrapport 2009*, p. 54.

⁴⁸ In the EU, 34% of women employees work part-time compared to 7% of men; Fredman, "Women at Work: The Broken Promise of Flexicurity", p. 302.

⁴⁹ Opinion of the European and Social Committee on Employability and Entrepreneurship, "The role of civil society, the social partners and regional and local bodies from a gender perspective", p. 116.

⁵⁰ Fudge, Owens, "Precarious work, Women, and the New Economy: The Challenge to Legal Norms", p. 13.

growth and competitiveness. This approach affects the regulation of the Swedish labour market and has led to changes in the SEPA. The current law gives employers greater latitude to employ workers on fixed-term contracts than it did when SEPA was first enacted. SEPA is designed to give employees with permanent employment contracts the strongest employment protection. The Act imposes criteria on an employer's freedom to unilaterally terminate employment, which implies that rapid changes in the number of permanent workers are not possible. The current discourse on employers' needs for flexibility in order to enhance operational efficiency is strong. As a result, employers are taking advantage of expanded opportunities for temporary employment provided by the law. One consequence of this is that the prevalence of fixed-term employment has increased in the Swedish labour market. The sectors of the labour market where there are high levels of fixed-term and part-time jobs are dominated by women workers, which is why women are the workers who meet employers' needs for flexibility. In this sense, women are still providing a labour reserve to be drawn upon when needed.

In a Swedish context, the Labour Court has expressed the view that employers in principle have an obligation to provide skills development for their employees. There are, however, no rules in law or under collective agreements that give individual employees the right to a specific amount of training with a specified content or at a specified level. It is the employer, exercising the managerial prerogative, who decides who will receive competence development and what that competence will be. It is a known fact that fixed-term and part-time employees are negatively impacted by underinvestment in education. There is a risk that more women than men will fail to acquire sufficient qualifications during their employment, since they run the risk of being given fewer opportunities for competence development than men. This affects women's employment security not only in relation to their current employer but also in competition in the labour market as a whole.

The analysis of flexicurity and SEPA shows that women differ from the notion of the typical employee upon which the norms of both flexicurity and SEPA are based. This means that men, in general, have better chances of achieving job and employment security both under SEPA and flexicurity. Neither the regulations in SEPA nor the norms on which flexicurity is based have considered the conditions specific to women. Both when the labour market is regulated on the basis of stability in the employment relationship between employer and

employee, and when this relationship is characterised by flexibility, women are excluded. The major problem is the lack of gender analysis in the approach that forms the foundation for SEPA and flexicurity.

One conclusion is that women's position in the labour market needs to be strengthened. This could be achieved by reducing the possibility to employ workers for fixed terms over long periods and through giving workers a stronger legal right to full time employment. Perhaps one path towards reducing gender segregation in the labour market would be to allow positive discrimination for the underrepresented gender in relation to terminations due to redundancy.

Equal opportunities for workers to obtain skills development could be realized if all employees were given a right to competence development under the terms of their individual employment contracts. The financial allocations to individual training accounts should be based on length of service. This would, among else, mean that workers would accrue training account allocations while on parental leave. An instrument of this kind in labour market policy would give all workers an economic opportunity to develop their skills after some time. This could potentially reduce the risk that any category of workers will become trapped in precarious work.

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