



FRAMED FLEXIBILITY: A NEW MODEL FOR WORKING TIME LAWS

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The Framed Flexibility Model

The Framed Flexibility Model is a framework for working time laws that is suited to the contemporary labour markets of the global North and South.

The Model responds to an urgent need: to find effective regulation for the precarious and informal working relations that are expanding across the advanced industrialised world and have long been characteristic of the South.

The Model was initially designed for the regulation of working time in one of the key forms of informal labour: domestic work.^[1] It can be used across the labour force, with a particular focus on casualised work.

The role of contemporary working time laws

The Framed Flexibility Model supports standardised working time norms with a degree of flexibility in favour of both employers and workers.

It recognises that working time laws are central to the regulation of the range of forms of casual work (day labour, zero hours contracts etc.).

The Framed Flexibility Model therefore proposes strategies for the 'formalisation' of informal and precarious work. To this end, it suggests that working time laws should play a 'reconstructive' role: fusing stints of casual labour into coherent and protected working relationships.



[1] Deirdre McCann and Jill Murray, 'Prompting Formalisation through Labour Market Regulation: A "Framed Flexibility" Model for Domestic Work' (2014) 43(3) Industrial Law Journal 319-48.

The 8 Principles of Framed Flexibility

- **Universality**

All workers are entitled to labour law's protection including e.g. 'non-standard' workers (part-time, casual, temporary agency/labour hire), migrant workers, domestic workers.

- **Unity of Labour Law Regimes**

Systems of regulation are an integrated whole. Laws for particular categories of workers should not undermine the level of protection available under mainstream working time frameworks.



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- **Standardisation**

Working time laws should address the temporal elements of precariousness e.g. excessively short or long hours, irregular schedules, work during unsocial periods. Key aims are certainty, regularity, and the preservation of social and community time.

- **Regulated Flexibility**

Certain jobs – for example, those involving personal care – must escape standardised working time, at least periodically.

- **Working Time Capability**

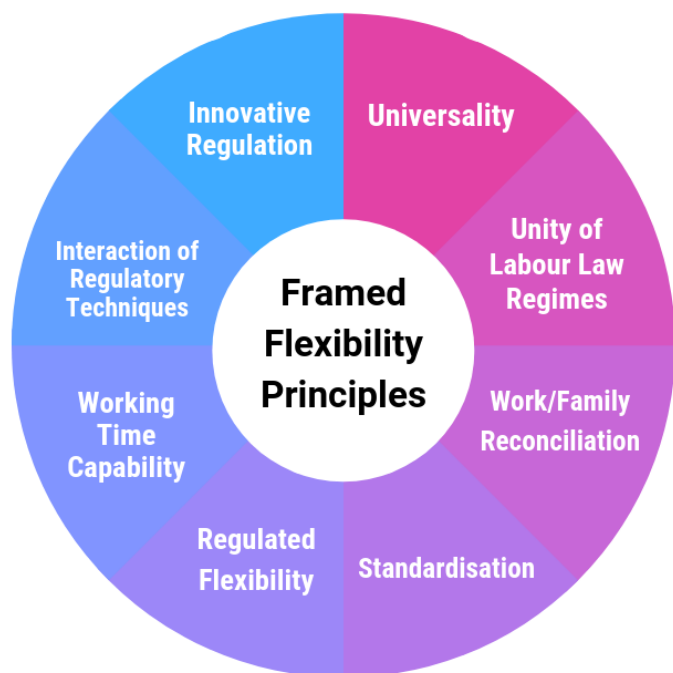
Labour laws must support the capacity of individual workers to influence their working hours.^[2]

- **Interaction of Regulatory Techniques**

The most effective balance must be found between legislation and collective bargaining. This objective includes support for the collective voice of workers and employers.

- **Innovative Regulation**

A degree of experimentation is crucial in the design of legal frameworks on working time. Dynamic and responsive regimes are needed that involve empirical testing and incremental reform.



- **Work/Family Reconciliation**

A central aim of working time laws is to regulate working hours that inhibit family life e.g. long hours, unpredictable schedules. In particular, carers should have adequate time to devote to their families.

[2] Sangheon Lee and Deirdre McCann, 'Working Time Capability: Towards Realizing individual Choice' in Jean-Yves Boulin, Michel Lallement, Jon C Messenger and François Michon (eds), *Decent Working Time: New Trends, New Issues* (International Labour Organization 2006).

The Framed Flexibility Standards

The Framed Flexibility Model is not a universal model to be applied without modification. Instead, it is a resource for the design of measures at a range of regulatory levels and in diverse national settings.

As an illustration, see further the [Model Law on Working Time in Domestic Work](#).^[3]

The model is composed of three parallel sets of standards:



The Framing Standards

Aim: Ensure flexibility for workers and employers while constraining working hours.

Principle: Decent work requires limits on the availability of workers' labour, to preserve health, wellbeing and family life.

Key requirements include:

- All hours in which the worker is at the disposal of the employer are counted as working time for all purposes.
- Remuneration at a level to sustain a decent standard of living without excessive working hours (an objective of 8 hours a day, 40 hours a week);
- Daily rest periods (minimum of 11 hours);
- Weekly rest (minimum of 1 day per week);
- Annual leave (minimum of 3 weeks per year);
- Public holidays;
- Paid sick leave;
- Overtime hours: notice periods; right to refuse unless urgent and essential need for

- **Framing Standards.** A framework of hours limits and rest periods to provide for protected standard working hours;
- **Temporal Flexibility Standards.** A set of standards that provide a degree of flexibility in favour of both employers and workers; and
- **Effective Regulation Standards.** Procedural standards which ensure that the Framing Standards and Temporal Flexibility Standards exercise a decisive influence on working life.

services; 48 hour maximum on weekly hours; remuneration at a premium of at least 50 per cent;

- Working time schedules: excessively short periods avoided where possible; compensation when report for work to find expected to work for less than 2 hours; prohibited to hire on an 'as and when required' basis; incentives to arrange hours continually.



Photo: CatwalkPhotos/Shutterstock.com

[3] Deirdre McCann and Jill Murray, 'Model Law on Working Time in Domestic Work', Decent Work Regulation Policy Briefing 2/2020 (University of Durham 2020). Available at <<https://www.dur.ac.uk/resources/law/UFW/ModelLawPolicyBrief.pdf>>.



The Temporal Flexibility Standards

Aim: To structure unpredictable job demands within the limits of the Framing Standards.

The Temporal Flexibility Standards provide for **two requirements**:

- The employer's need for the emergency presence of the worker.
- The worker's need for time to devote to elements of life beyond waged labour.

The Temporal Flexibility Standards have **two dimensions**:

- The regulation of 'on-call' periods, when the worker is called upon at short notice to perform tasks for which it is difficult, or impossible, to plan in advance.
- Temporal autonomy: to extend to informal and casualised workers the right to flexibility in their working-time arrangements.

Key requirements for on-call periods

- Internal on-call periods (in which the worker is required to remain at a place selected by the employer): **(i)** workers are entitled to a secure, private place to sleep; and **(ii)** these periods count as working time for all purposes, including pay.
- External on-call periods (worker is at a location of their choice): **(i)** do not count as working time, unless the worker is subject to a degree of obligation comparable to internal on-call periods; and **(ii)** subject to hours limits, minimum rest periods, and compensation.
- Call-outs are permitted only where there is an urgent and essential need for services.



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Key requirements on temporal autonomy

Principle: workers should have the capacity – as far as possible – to adjust their working hours to match their needs. Key requirements include:

- Employer to notify the worker of planned changes to her working time arrangements;
- Employers to take account of workers' preferences over work schedules;
- Entitlement for workers to request adjustments to either duration/arrangement of hours: **(i)** request must be granted unless it conflicts with an essential need for the worker's services; and **(ii)** more forceful obligation for adjustment-requests based on particularly compelling grounds e.g. caring for a young child, disabled or sick family members;
- Mandated leave periods.



The Effective Regulation Standards

The Effective Regulation Standards adopt an innovative regulatory approach. It embraces experimentation, periodic review and reform through requirements on record-keeping, regular evaluation, and careful calibration of statutory and collective regulation.



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Bottom photos: International Labour Organization

This approach recognises collectively-negotiated agreements as the most effective way of ensuring compliance with protective standards. To this end, legislation should be designed to offer incentives to construct collective bargaining structures.

Key provisions include:

- A written Working Time Agreement to be concluded between worker and employer at the outset of the relationship;
- Failure to keep or to provide records when requested is an offence;
- A process of regular consultation between governments and representative organisations of workers and employers on methods of monitoring working hours and on implementation and enforcement of labour standards;
- A periodic evaluation of the influence of legislative measures, e.g. at least once in each 5-year period;
- The possibility of modification of standards by collective agreement, e.g. hours-averaging schemes may be negotiated to permit workers to exceed daily or weekly hour limits in certain circumstances.

This Policy Briefing draws on:

Deirdre McCann and Jill Murray, 'The Legal Regulation of Working Time in Domestic Work' (2010) International Labour Office Conditions of Work and Employment Series No 27.

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