

Work Flows and Flexicurity: Canadian Cultural Labour in the Era of the Creative Economy

A report prepared for the

**Canadian Conference
of the Arts**

by

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Table of contents

Preface

Abbreviations

Tables and figures

Executive summary

I. Introduction

1. Building on the *From economy to ecology* report (2008)
2. The current report: Research focus and limitations

II. Analysis

1. Review of academic literature
2. Review of existing policy instruments and policy recommendations
 - 2.1 Positions of the European Union
 - 2.2 Modernizing Canadian labour regulation
 - 2.2.1 The Arthurs report
 - 2.2.2 Other Canadian recommendations on EI adaptation
 - 2.3 International labour regulation – The activities of the ILO
3. Interviews with experts in creative labour and labour in general
 - 3.1 Methodology
 - 3.2 Impact of the recession on creative labour
 - 3.3 Familiarity *with* and evaluation *of* the concept of flexicurity
 - 3.4 Different strategies to advocate for creative labour
 - 3.5 Suggestions for a policy framework for creative labour

III. Conclusions, connections, and recommendations

1. Comparing insights from academic literature, policy documents, and interviews
2. Disjointed policy discourses
3. Connection of current report to *From economy to ecology* report (2008)
4. Policy gaps and future research

Works cited

Appendices

Preface

Creative work is changing. If Canada is to realize a full economic recovery from the current deepening global financial crisis, more information is needed about the dynamic and largely invisible creative economy sector to inform better policy intervention. Artists and cultural-creative workers manage complex work flows, interruptions, part-time contracts, transitions, and unpaid work. They have historically been afforded little income security in many countries, posing huge challenges in an aging artistic labour force. What are some of the new ideas for income security initiatives for flexible labour - a growing part of the new economy? How should the special needs of the cultural/creative sector be addressed?

In September 2008, the Canadian Conference of the Arts (CCA) and the Centre for Policy Studies on Culture and Communities (CPCC) at Simon Fraser University agreed to continue their cooperation on research into the cultural sector in Canada. The CCPA has previously produced a research report on principal thinking about the creative economy in Canada for the CCA (*From economy to ecology: A policy framework for creative labour*, 2008). This report continues this research on the creative labour force in Canada but moves the focus from the creative economy in general to approaches to creative labour within overall labour regulation.

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Abbreviations

Organizations - creative labour:

ACTRA = Alliance of Canadian Cinema, Television, and Radio Artists

CAJ = Canadian Association of Journalists

WGC = Writers' Guild of Canada

CCCO = Cultural Careers Council Ontario

UdA = Union des Artistes

BCAAC = BC Alliance for Arts and Culture

CIAIC = Canadian Interactive Alliance/ Alliance Interactive Canadienne

Organizations - labour in general:

CCPA = Canadian Centre for Policy Alternatives

CPRN = Canadian Policy Research Networks

International organizations:

EU = European Union

ILO = International Labour Organization

Tables and figures

Table 1: Fair working conditions articulated by the EU

Table 2: Principles of social dialogue on labour

Table 3: Perceptions of the impact of the recession

Table 4: Familiarity with the term flexicurity

Table 5: Summary of rationales for supporting creative work

Table 6: Summary of conclusions, connections, and recommendations

Figure 1: Pyramid of policy-making for creative labour

Figure 2: Disjointed policy discourses

Figure 3: Relationship of creative career to cultural sector

Executive summary

The cultural sector is experiencing massive changes due to globalization, technological innovation, the withdrawal of public funding and deregulation. At the same time, there is a heightened interest of local, provincial, national and international policy-makers – from creative city initiatives to the United Nations – in the economic as well as social relevance of the sector. The authors of this report welcome this increased attention to creative work but think that the key to promoting the sector has either not been recognized yet or is neglected by policy-makers. This key is a framework that contains rules for creative labour processes and offers social protection as well as employment and income security to the creative work force.

In their report, Mirjam Gollmitzer and Catherine Murray build on previous research conducted for the CCA which explored a new approach to policy-making for the cultural industries and cultural work called “creative economy” (*From economy to ecology: A policy framework for creative labour*, 2008). Apart from defining this often vaguely used concept, the researchers critiqued current cultural statistics which underestimate the cultural sector with respect to both size and variety of professional identities and employment relationships. A subsequent examination of policy measures used to promote the creative sector in countries around the world lead the authors to suggest four categories to group these measures: education and training, awards and contests, business support, and tax and social security policies. Several problems related to this catalogue of existing policy measures and categories have shaped the research focus of the current report on *Work flows and flexicurity: Canadian cultural labour in the era of the creative economy* (2009). First, the researchers found a limited view of the cultural sector as a new generator of economic growth, with largely uncoordinated and selective policy measures that are not part of a larger framework. Short-term training measures and business/entrepreneurial support turned out to be the preferred instruments to foster the creative sector. In contrast, social security and income security for the often precariously employed and only informally organized creative labour force are underdeveloped. The main focus of the current report is therefore labour regulation and its potential to foster the creative labour force in a substantial and sustainable way. One major goal is the development of a policy framework that offers a comprehensive view on creative labour that is firmly rooted in thinking about universal *standards*, *policy responsibilities*, and *policy strategies* before concrete *policy measures* are considered.

For the purposes of this report, flexicurity refers to income security for self-employed or part time workers.¹

¹ “Flexicurity” is a term in broad use especially in Europe, but one of the best descriptions emerges from Denmark, describing the special Danish three-sided mix of (1) flexibility on the labour market combined with (2) social security and (3) an active labour market policy with rights and obligations for the unemployed. The actual word is a contraction of *flexibility* and *security*. The system is also sometimes described as “a golden triangle”. *One* side of the triangle consists of flexible rules for hiring and dismissing. Flexible rules make it easy for the employers to dismiss employees during periods of recession and to hire new employees when things are improving again. The *second* side of the of the triangle consists of security for the wage earners in the form of a guarantee for a legally specified payment on a relatively high level if you become unemployed - regardless of the spouse’s income. Optimal “flexicurity” builds on an effective labour market system that offers guidance, a job or education to all unemployed – and this active labour market policy makes up the *third* side of the flexicurity triangle. Seen from the employers’ view: they have a flexible labour force, and from the wage earners’ view: they have a safety net, consisting of an unemployment benefit system and an active employment policy. This system is financed to a greater or lesser degree

Mirjam Gollmitzer and Catherine Murray use three strategies to work towards this aim. They start with a review of academic literature that looks at labour in the new economy from a critical perspective. The second section of this report is dedicated to Canadian as well as international policy developments in labour regulation for non-standard employment. Third, the authors consulted experts in labour and creative labour from across Canada in order to explore how they evaluate the current situation of creative workers as well as policy ideas for these workers.

As a result, this report provides insights into the chances *for* as well as obstacles *to* policy-making for creative labour. Examples of successful, non-traditional organization of the creative work force are provided and the growing importance of international labour regulation is noted. Moreover, international policy thinking is moving towards a consensus regarding the protection of non-standard workers through basic access to health benefits, regulation of working time, the possibility of collective bargaining and non-discrimination of part-time and fixed-term workers. While there is an encouraging awareness among policy-makers of the importance to support such workers, *creative* workers are so far not perceived as one group of vulnerable or precarious workers in need of such protection.

Another major finding of this report is that the discourses on creative labour are disjointed which dramatically hinders the development of a policy framework for creative labour. There are sharp differences among provincial regimes with responsibility for labour. Many acknowledge that Quebec is in advance of many other provinces. Yet the authors find that there is a lack of communication and awareness among creative sub-sectors, especially among traditional and non traditional creative sub-sectors as well as among policy experts in creative labour and labour in general. The activities of cultural, labour, and social ministries are in need of more coordination *within* jurisdictions. But jurisdictions themselves also need to learn from *one another* when it comes to policy thinking for creative work and non-standard work more generally. Finally, all of these stakeholders together need to pay more attention to international developments, such as the European concept of flexicurity that could inspire policy-making in Canada.

As far as policy gaps and blind spots in research are concerned, the integration of amateur and volunteer work into conceptualizations of the creative sector remains a huge task, despite increased awareness at the ILO of the value of such work. Considering the exceptionally low earnings of large parts of the creative labour force, future research needs to also take into account the bottom segment of the creative labour market more and find out what the possibilities are for creative labour to join forces with anti-poverty initiatives. Moreover, in order pay tribute to the remarkable diversity within the creative work force, the racial, gender and generational dimensions of creative labour in Canada have to be examined and integrated into policy considerations.

For now, Gollmitzer and Murray present a model derived from the research conducted for this report which establishes the basic steps to comprehensive policy-making for creative labour. Visualized as a pyramid containing various levels, the starting point is the establishment of universal principles or standards that guide policy-making. Next, it needs to be clarified how creative labour policy will be situated and integrated in labour, cultural and social policy of the respective jurisdiction. Subsequently, there are four different strategies to choose from which can

by the state.

be used to advocate for creative labour. These include emphasizing creative sub-sectors, a sectoral or unique circumstances approach to policy-making, a creative economy approach pointing to the economic value of culture, and the classification of creative workers as one group of vulnerable or precarious workers among others.

The authors conclude with the observation that principles guiding social and employment security for creative workers now need to be translated into concrete policy measures (located at the top level of the pyramid), complementing already existing tools that offer business/entrepreneurial support. Examples of such measures include workers compensation for performers (in case of injury during training in times of non-employment), the obligation of producers to contribute to the financing of training for self-employed artists that work for them, the right of journalists to protect their sources, the use of a chip that saves the employment history of creative workers, and Employment Insurance for the self-employed. Another important idea is the establishment of a public or private “benefits bank” as suggested in the Arthurs report on the modernization of Canadian labour regulation (2006). Benefits would be provided on the basis of total hours worked in the creative sector, without regard to specific contracts or employers or by whom the contributions were made. The Arthurs report, overall, should be one of the starting points for future policy thinking around concrete measures that provide social and income security to creative workers. Not only has it been commissioned by the Canadian government and prepared for the Canadian context, it also places labour regulation in a broad context of human rights and dignity. In addition, in order to come to a more holistic understanding of creative labour, in-depth interviews with creative workers exploring their actual life and work cycles should be used. So far, no one has undertaken such research but the voices of creative workers themselves should make the single most important contribution when it comes to the design of effective and concrete policy instruments.

I. Introduction

1. Building on the *From economy to ecology* report (2008)

This research paper builds on a previous research report prepared by SFU's Centre for Policy Studies on Culture and Communities for the Canadian Conference of the Arts. The goal of the *From economy to ecology: A policy framework for creative labour* (2008) authored by Mirjam Gollmitzer and Catherine Murray, was to outline existing policies that promote and protect creative workers around the world as well as to recommend a policy framework that would offer comprehensive support to the creative labour force.

First, the report discusses a new policy area called “creative economy” that has become popular among states and regions world-wide over the past years. An analysis of several policy papers illustrates that the interest policy-makers take in the frequently self-employed, multi-skilled, mobile and flexible creative labour force is mainly driven by an interest in the growing *economic* value of cultural work in the knowledge economies of the 21st century. Subsequently, the authors of the report set out to map the creative labour force in Canada. This brings several problems to light. First, the statistical tools currently used to assess cultural work are inadequate since they do not account for creative workers who earn more from non-cultural than from cultural occupation. Another finding is that voluntary work² and not-for-profit enterprises, both pivotal for the cultural sector, are not included in statistics on cultural work. Moreover, policies for creative work are still largely based on the assumption of full-time employment and neglect part-time work and self-employment. Also, unstable employment situations – typical for the creative sector – pose difficulties when it comes to unionization and collective bargaining, not to speak of social security benefits and pension planning.

The last section of the *From economy to ecology* report explored policy instruments that have been implemented to promote the creative labour force. The authors divide these policy instruments into four different categories that they entitle “education and training”, “awards and contests”, “business support” and “tax and social security policies”. The emphasis in contemporary policy thinking clearly is on the first two categories which entail short-term, incentive-oriented policies. In contrast, social security policies which would be a long-term investment into the stabilization of the creative work force, are frequently missing from policy catalogues. In conclusion, existing policy instruments are found inadequate to account for the incredible diversity as well as the precariousness of life and work styles that characterize the creative labour force. In response, a move from the mainly GDP-oriented *creative economy* approach to a more comprehensive *creative ecology* approach is suggested. A creative ecology approach includes a need-based perspective on policy-making that recognizes that “flexicurity” – social security for the self-employed flexible labour force – is a key enabler of innovation. Second, the perspective has to be broadened to include voluntary work, amateur work and other non-standard work which is common in the cultural sector. A first step to do this would be to revise the methods used to generate cultural statistics in Canada and internationally so that insights into the stratification and richness of activity patterns of creative workers in the

² We note that up to 42% of the labour force in the arts culture and heritage sector may be volunteers (see Neil Craig Associates, 2005) and may challenge traditional definitions of professionalism. They are nonetheless essential to understanding the full spectrum of cultural workers, including supportive (unpaid) workers. There is a separate sector council for the voluntary/nor for profit sector (<http://hrys-rhsbc.ca/>), and different research priorities.

knowledge economy can be gained. Also, creative city concepts and other creative space approaches should be taken into account in a creative ecology model that is sensitive to the actual (and mostly urban) work places and spaces of creative workers. In sum, the *From economy to ecology* report shows that a paradigm shift in policy-thinking is needed, from primarily economic considerations to the insight that the protection and promotion of creative work is paramount to the overall well-being of a society.

2. The current report: Research focus and limitations

Motivated by the blind spots and vertical “silos” found in policy networks reported in *From economy to ecology* as well as in the current report (*Work flows and flexicurity: Canadian cultural labour in the era of the creative economy*, 2009), we pursue one overarching goal. This goal is to educate those who use a “general rationale” for the creative sector - regarding it as requiring labour policies that apply to all sectors of the economy - about the specificity of creative labour. At the same time, we would like to educate those who use a “special needs rationale” for developing creative labour policies about the general relevance of creative labour/arts/culture. In contrast to the first report, our starting point for thinking about policies for the creative labour force is now not creativity combined with creative economy approaches. Instead, we examine labour laws and labour policies *in general* in order to then determine developments and ideas that could be particularly fruitful when applied to the *creative* labour force. To do this, we must, of course, remember the typical characteristics of the creative labour force mapped out in the first report (such as high numbers of self-employed workers, the prevalence of overwork and short-contract work, the lack of access to social security benefits, high levels of education and motivation, sharp differences in wages by discipline, etc.).

We start out with an overview of the academic literature on labour regulation in the knowledge economy, followed by an exploration of policy approaches to regulating non-standard forms of employment today. Thirdly, the study presents the views of ten experts in labour regulation and cultural labour whom we interviewed in February 2009. These policy experts assess the current situation of the creative labour force and non-standard workers in general and suggest policies that would support creative workers. Finally, we include these recommendations in our reflections on a policy framework for creative labour and we identify research gaps that need to be filled in the future.

However, our research report has its own limitations, resulting from both the specific research goal of this study – promoting the creative labour force through policy suggestions – as well as from the financial resources available to carry out this research. First, in the literature review on labour regulation in the new economy, we have left aside the extensive literature in business and management studies whose interest in labour processes is driven by the desire to improve the competitiveness and productivity of companies. The literature that we discuss looks at labour from a more holistic, critical perspective that is sensitive to the challenges that workers face in the knowledge economy. Instead of focussing on strategies to increase efficiency, these studies from the disciplines of law, sociology and communication, problematize the changing working conditions and new forms of inequality that arise from these.

Moreover, the choice of policy documents discussed in the second section of this report is owed to our focus on the Canadian labour market as well as the increasing relevance of international

labour regulation for nation-states in the age of globalization. It was important to us to present ideas that were developed explicitly for the Canadian context (the Arthurs report) but to also explore policy thinking in the European Union and labour standards adopted by the International Labour Organization (ILO).

The selection of people participating in our research interviews was made with the aim of including policy advisors and policy experts, both at the provincial and federal levels, as well as members of the academic community. To discuss general developments in labour regulation, we approached experts who are or were affiliated with universities or think tanks in Canada. To access knowledge specifically about the creative sector, we invited leading representatives of well-known arts and culture organizations, associations, or unions to participate, ranging from the Union des Artistes (UdA) in Quebec (representing French-speaking artists in Canada) to the Writers' Guild of Canada (WGC) (representing professional screen writers in Canada). Thus, many experts speak from a perspective of more or less *organized* groups or segments of the labour force. Their expertise and suggestions are derived from experiences with those creative workers who are members of the unions or associations that they are affiliated with or who use the services of these organizations.³ Fewer voices provide us with assessments that do not focus on the organized segment exclusively but include assessments of non-organized or more informally organized workers in the creative sector, such as representatives with the Canadian Interactive Alliance (CIAIC), the Cultural Careers Council of Ontario (CCCO), and the BC Alliance for Arts and Culture (BCAAC). Moreover, we have to keep in mind that the insights provided in the expert interviews are mostly derived from working *with* and *for* the creative labour force but not from being *part of* the creative labour force.

³ The services that arts and cultural organizations offer to creative workers include access to group plan health benefits, collective bargaining, access to training and career planning, and opportunities for networking.

II. Analysis

1. Review of academic literature

Academic research on labour and labour regulation in the knowledge economy – a field still in its infancy some years ago – is growing fast. Many substantial studies have been produced over the past years and the major research paradigms and research sub-fields have been established. The most important ones are outsourcing and technological change, non-standard and precarious forms of work, non-traditional forms of worker organization, labour disputes, the gendered nature of knowledge work, and international labour regulation. Much of this research uses a perspective on labour and labour policy that is critical of neoliberal approaches to policy-making. It is also fair to observe the media bias to most of the literature. Case studies or analyses of the traditional performing arts or heritage worlds of work are much less frequently encountered than those on the cultural industries, yet studies of “Crossovers” (Markusen, 2006) suggest artists flow across these worlds regularly.

The **gendered nature of work** has been one area of interest. The fact that women are still primarily working in temporary, part-time or precarious jobs while men mostly fill permanent full-time positions is one starting point for criticizing the ongoing segmentation of labour markets. It is also a way to illustrate that the principle of equity in today’s labour markets is far from being realized. Vosko and Fudge (2001) show that the focus on the standard employment relationship (that applies to positions mainly occupied by men) in policy-making has led to a marginalization of “female” forms of work (part-time, temporary, precarious). This is now changing due to a development that the authors call the “feminization of labour markets” at large. The goal is, however, to foster the occupation of formerly male-dominated positions by women without “feminizing” the work place in a negative way, meaning increasing insecurity and precariousness for the contemporary labour force. Women in Film and Television (WIFT) are working on an extensive survey for 2010 release on related issues.

Another focus of the academic literature is the efforts of creative workers and knowledge workers more generally to **organize and fight for better working conditions**, wages or protections denied to them by their employers. Examples include organized labour campaigns for Canadian dramatic programming (Coles, 2006), an examination of knowledge workers organizing through the use of technologies at Microsoft (Brophy, 2006) and a cultural workers movement that led to a prolonged strike by film and television workers in France (Bodnar, 2006). Frequently, scholars bring to light successful strategies used by creative workers to voice their concerns and, occasionally, have them heard and acted upon by employers. This goes against the common assumption (supported by media portrayals) that worker organization has become either useless or impossible in the post-Fordist era. Again, it is noteworthy to observe how much more is known about high-wage and/or organized workers than those in low wage and/or unorganized jobs.

Outsourcing and **technological change** in the form of digitization are two additional developments that have significantly affected media and cultural workers during the past years. Vincent Mosco determines a major transformation of the international division of labour for the creative sector. However, Mosco rejects an entirely negative notion of outsourcing and points out that developed nations such as Canada have benefited as recipients of outsourced jobs while countries such as India are beginning to lead the process. At the same time, he describes

examples of worker resistance against outsourcing (Mosco, 2006). Mosco also mentions the fundamental way in which digital technologies have enabled the new global division of labour. Using the example of Taiwanese newspaper reporters, Liu (2006) expands on these thoughts by describing the de-skilling effects that ICTs have had on journalists, including the trivialization of reporting tasks and the devaluation of reporters' experience (which, in turn, often leads to a replacement of older, permanently employed reporters by younger, temporarily employed journalists). It is common to assert that new work flows are increasingly socially-organized in new ways and that new media workers are less often organized in traditional ways, yet there are few studies which examine these spontaneous, individually clustered support networks.

In an article that examines **international labour law**, Leah Vosko (1998) analyzes temporary employment and the regulatory responses that North American countries and the European Union have developed respectively. Canada and the United States have taken a non-regulation approach that does not oblige employers to abide by occupational wage scales or provide extended health coverage and other benefits beyond contributions to basic social security schemes (p. 25). In contrast, the European Union has decided that temporary work should be regulated and has established a “minimum floor of protections”⁴ which makes the exploitation and social precariousness of workers less likely (p. 26). Another publication exploring international labour law critically looks at the role of the International Labour Organization (ILO) in promoting its principle of “decent work”⁵. The author of this study finds that the ILO's role in policy-making and advising is ambivalent since it has to take into account the efforts of mostly neoliberal nation-states to deregulate (because it wants its policies implemented as widely as possible) while trying, on the other hand, to challenge this emerging global hegemonic order by promoting active labour rights (Vosko, 2002). We will explore international labour regulation as promoted by the EU and ILO in more detail in the following review of policy documents.

2. Review of existing policy instruments and policy recommendations

2.1 Positions of the European Union

In a follow-up publication to a Green Paper on *Modernizing labour law to meet the challenges of the 21st century* (2006), the the European Commission outlines four policy components that it regards as vital for future labour policy-making. The publication is supposed to serve as a toolbox for national governments in Europe as well as social partners when designing policies to modernise labour (*Towards common principles of flexicurity*, 2007, p. 3). The first component is “flexible and reliable contractual arrangements”. The EC sees the need to revise existing employment protection legislation where it makes dismissal extremely difficult and thus often deters employers from taking on new employees, resorting to temporary workers with less protective contracts. However, new employment protection legislation has to be sensitive to the

⁴ A discussion of EU directives on labour regulation that establish a minimum floor of protections for non-standard workers follows in the next section of this report. For an overview of EU directives, see p. 11, Table 1 of this report.

⁵ Decent work as defined by the ILO involves “opportunities for work that is productive and delivers a fair income, security in the workplace and social protection for families, better prospects for personal development and social integration, freedom for people to express their concerns, organize and participate in the decisions that affect their lives and equality of opportunity and treatment for all women and men (ILO, Decent work, 2009).

needs of women and young workers in the labour force which more often than others hold temporary jobs. Thus, the principle of contractual flexibility should not be stretched too far.

The second policy component “life-long learning strategies” is seen by the EC as indispensable to a work environment characterized more than ever by rapid change and innovation. The EC especially encourages the training and education of low-skilled, self-employed, temporary and older workers which are often neglected by employers as well as government initiatives that foster life-long learning (p. 14). “Active labour market policies” is the third component and closely related to education and training. The EC recommends more efficient job placement services and job search support to help reintegrate the unemployed into the labour market. A number of cities (like the Greater London Council) have developed a range of types of job counselling and new creative business start up assistance to support creative economy strategies. The EC suggests that some governments which provide generous unemployment benefits may want to shift their policies towards work incentives in order to motivate the unemployed to find a job.

“Active labour market policies” as well as the fourth and last policy component, “modern social security systems”, are essential to manage periods of job transition and job transfer which are not the exception but the rule in today’s labour markets. Most social security systems are still geared towards protecting workers in an open-ended contract in a particular job while today social security should be designed to equally assist workers in periods of job transition. According to the EC, “modern social security systems” should provide health care benefits, unemployment benefits, parental leave and childcare policies as well as pension security.

The European Union clearly recognizes the immense change that has taken place in labour markets due to the transition from manufacturing to knowledge economies.

Fixed term contracts, part-time contracts, on-call contracts, zero-hour contracts, contracts for workers hired through temporary employment agencies, freelance contracts, etc., have become an established feature of European labour markets (p.7).

It is acknowledged that businesses – in order to remain competitive in a globalized economy - prefer these non-standard contractual arrangements because these allow them to avoid employment protection rules, notice periods and social security contributions. At the same time, the EU states that there are “some detrimental effects associated with the increasing diversity of working arrangements. [...] part of the labour force gets trapped in a succession of short-term, low-quality jobs with inadequate social protection” (p. 8). This particularly concerns women, older and younger workers who less often find standard employment than other classes of workers. Those “potentially vulnerable” workers need to be offered more opportunities and protections to better manage job transitions. On the other hand, those with regular permanent employment should encounter more incentives to explore greater flexibility at work (p. 9).

In addition to the four policy categories that define flexicurity, the EU has adopted several directives that are dedicated to establishing fair working conditions and a minimum floor of protections for those workers within the European labour force that are in non-standard employment relationships (see Table 1 below). While all of these directives fulfill important functions for workers in Europe, we are particularly interested in the first four. They show that the EU recognizes the increasing fragmentation of the labour market and has decided that more

regulation is required to come to terms with this fragmentation. Together, these four directives form the EU’s framework for the protection of vulnerable workers and workers in atypical or non-standard employment. The directives on fixed term work, part-time work and temporary agency work are especially relevant to creative workers since these are the employment relationships that are more common in the creative sector than in other sectors (*A statistical profile of artists in Canada*, February 2009).

Table 1: Fair Working Conditions Articulated by the EU

| EU Directives establishing a basic floor of protections for non-standard workers | Protection contained |
|---|---|
| Health and safety in fixed term and temporary employment | Improves safety and health at work of workers with a fixed-duration employment relationship or a temporary employment relationship |
| Fixed term work | Improves the working conditions of workers with a fixed-term employment contract by ensuring the non-discrimination principle and preventing abuse through the use of successive fixed-term contracts. Employers’ obligations to inform fixed-term workers about vacancies, to facilitate their access to further training and to take this type of employee into account when calculating the threshold for worker representative bodies. |
| Part-time work | Prevents unfair treatment of those whose normal working week is shorter than that of full-time employees. |
| Temporary agency work | Establishes protection of temporary agency workers in Europe as well as a framework for the use of temporary agency work services. Recognizes contribution of agency work to job creation, and to the development of flexible forms of working. Establishes the principle of equal treatment, while allowing flexibility in the implementation of principle at national level. |
| Information on Individual Employment Conditions | Employer is obligated to inform employees of the conditions applicable to the contract or employment relationship. |
| Employer Insolvency | Protection of employees in the event of the insolvency of their employer |
| Young people at work | Prevention of child labour; Provisions concerning working hours, night work, rest periods, annual leave, and rest breaks. |
| Posting of workers | Freedom of establishment and services, free movement of workers across EU member states, protection of workers who work in a EU country other than their home country |

| | |
|--------------|--|
| Working time | <p>Several directives; some dedicated to establishing a framework for organizing working time (breaks, sick leave, vacation time, etc.) for all sectors; others dedicated to specific sectors (railway workers, seafarers, etc.).</p> <p>Improves safety, hygiene and health at work for European workers.</p> <p>Rejection of purely economic considerations in the organization of working time.</p> |
|--------------|--|

2.2 Modernizing Canadian labour regulation

Labour is mostly provincial jurisdiction in Canada, and since much of the cultural sector falls outside of federal jurisdiction, any new national labour standard will require advanced federal/provincial agreement. Yet there are signs of federal leadership in the theoretical and legal work to modernize Canadian labour legislation which are noteworthy for the arts, culture and heritage sector. In 2004, the Canadian government started the process of reviewing the Canadian labour code which regulates hours of work, minimum wages, statutory holidays, parental leave, sick leave, and termination of employment contracts for those who fall under federal jurisdiction. A Commission on the Review of Federal Labour Standards was launched, headed by law professor Harry Arthurs. After a public consultation, the Commission presented several recommendations for the modernization of Canadian labour law to the government.

2.2.1 The Arthurs report

First of all, the Arthurs report recommends clear definitions of key terms such as “employee”, “autonomous worker” and “independent contractor” in order to account for the increasing variety of work situations. Also, every one of those groups of workers should receive a written notice about their status from their employer in order to assess risks and protections (p. xii).

Furthermore, the Arthurs report suggests formal cooperation agreements between the Labour Program and the Canadian Human Rights Commission in order to ensure that the two regimes are fully compatible. The report thus places its recommendations for modernizing the labour market explicitly in a context of human rights protection. The suggested appointment of inspectors who enforce standards and report violations to the Human Rights Commission underlines this perspective. In addition, to ensure compliance with labour standards, the Arthurs report suggests that workers and employers should be educated by advocacy organizations about their rights and responsibilities. The author of the report is also eager to increase the Labour Program’s means to sanction employers and employees who violate labour standards, introducing the idea of a Chief Compliance Officer and Hearing Officers.

To move on to recommendations for specific labour standards, the Arthurs report believes that more flexibility concerning working time would benefit workers (who could allocate more time for community and family responsibilities) as well as employers (who would become more competitive in the global market place). More freedom should be conceded to both parties in deciding about work time among themselves – without having to ask permission from the Labour program. Similarly, maternity, parental and compassionate care leave should be made more

flexible in order to allow workers to achieve a greater work-life balance. To realize this goal, it is also recommended that workers have a limited right to refuse overtime and request individual accommodations concerning their hours and location of work (p. xiv).

The Arthurs report recognizes that there exist groups of “vulnerable workers” (p. xv), such as those with certain demographic characteristics (women, immigrants) and those with particular contractual arrangements (part-time, temporary, agency and autonomous workers). It is emphasized that such vulnerable workers *should receive pay equal to full time permanent workers as well as be able to qualify for statutory benefits if working for the same employer repeatedly or over longer periods of time*. Furthermore, the Arthurs report finds it problematic that vulnerable workers, especially part-time, temporary and autonomous workers, are often “ineligible for the benefits (drug, dental or disability insurance, and pensions) provided by employers to the full-time, permanent workforce” (p. xvi). The report recommends that the feasibility of establishing a public or private sector “benefits bank” be explored:

The federal government ought to investigate a range of possibilities for providing benefits coverage to temporary workers, agency workers, self-employed persons and others presently without coverage. It ought specifically to consider establishing a “benefits bank” through which employment-related benefits coverage could be purchased by workers themselves or by their employers, as well as by other persons seeking coverage. This “bank” might be established by private insurance companies or organized by a public agency (p. 241).

The eligibility for benefits could be determined and benefits provided “on the basis of aggregate contributions, or total hours worked, largely without regard to where the hours were worked or by whom the contributions were made” (p. 241).

In addition to providing insurance coverage outside of the employment relationship, the exploitation and abuse of vulnerable workers need to be combated. To achieve this, the Arthurs report recommends the moral principle of decent work (as defined by the ILO, see p. 9 of this report). Accordingly, the Canadian government should adopt the principle that “no Canadian worker should work full-time for a year and still live in poverty” (p. xvi), reviving debates about fair minimum wage, now convulsing the provincial political scene, as may be seen in the aftermath to the March 2009 Ontario budget. The Arthurs report states that it considers fair wages “an issue of fundamental decency that no modern, prosperous country like Canada can ignore”.

Lastly, summarizing its overall perspective on labour policies, the Arthurs report emphasizes that labour standards “should be part of a larger ‘flexicurity’ initiative” that allows employers to adapt to competitive conditions while allowing workers to feel more secure in the new economy (p. xvii).

2.2.1 Other Canadian recommendations on EI adaptation

While *From Economy to Ecology* argued that the federal status of the artist legislation had been largely ineffective in promoting awareness or improvement of the socio-economic status of artists and creators, proponents of it such as the noted cultural policy expert Keith Kelly, believe that under the federal legislative provisions any negotiated standard between an artists association and presenting/production organization applies to all artists in the field regardless whether they are members or not. This confers on non-members many of the benefits in terms of scale

payments and other working conditions without having to be a member of a union or professional association. It is this concept Kelly would like to see extended to other disciplines.

In a report prepared for the CHRC (2005), Garry Neil (Neil Craig Associates) reviewed the status on employment insurance benefits for self-employed artists (mostly located in the performing arts) and contractual (not employed) cultural workers. In this report, he reviewed some of the major distinctive characteristics shaping any drive for greater security: that independent status remains essential for artists who exercise copyright in their work, especially in the film and performing arts, and flexibility in this independent status is important. His report reviews the erosion in independent status for many professional symphonies and most dance companies, the fact that no professional standards are generally recognized in Canada, and the various insurance, health and other benefits provided by Canada's principal unions (Union des Artistes, Director's Guild of Canada, Writers' Guild of Canada, ACTRA, and Canadian Actor's Equity). Notably, 13 of the 16 major professional artists associations in Quebec offer pension plans, mark of a more engaged social welfare network for the creative arts in that province compared to most others. The Neil Report, *Employment insurance benefits for self-employed artists (2005)* argues strongly for a trial adaptation of the EI system for artists without affecting their self-employed status, and clarification of the current Revenue Canada's definition of "available and willing for work" to avoid exclusion of rehearsals or other means to practice their craft, or avoid penalization if they work in a field in which there are only limited opportunities. The paper also reviews income protection, general benefits and especially pension schemes in a number of European countries, finding, like Gollmitzer and Murray, the German Kuenstler Sozialkasse (KSK, translated as Artists Social Fund) covering health and pension but not unemployment benefits – which is unusual for the large size of its registration. Other countries are not necessarily found to be ahead on employment insurance, exhibiting the same inconsistencies, but the Netherlands is singled out for its special *Income Provision for Artists Act* which contains special rules to assist young artists launching their careers.

2.3 International labour regulation - The activities of the International Labour Organization (ILO)

The ILO is a UN agency committed to protecting human and labour rights around the world according to the principle of "decent work". The organization is active in all sectors of the labour market, from agriculture and the chemical industry to transport and utilities. Of special interest to us is the sector entitled "media, culture, and graphical". The ILO is an important source for our report because its perspective on labour rights is uniquely international, non-governmental and, also quite uniquely, considers volunteers as invaluable participants in the labour market.

One example of the ILO's impact as policy-maker is in the area of social dialogue. The ILO offers guidance in thinking through labour-management relations in the new economy where fewer and fewer cultural workers are employed permanently and full-time and where many see their jobs reshaped by technological innovations which bring about new ways of working and the fear of job loss. In a report from the year 2004, the ILO presents successful examples of new forms of cooperation and consultation undertaken in social dialogue and collective bargaining in the digital media sector – a sector without much previous experience in collective bargaining (ILO, *The future of work and quality in the information society*, 2004). For instance, a national collective agreement reached in Italy in 2001 covered online journalists for the first time. For

technicians working for audiovisual production companies in Spain, a national collective agreement was reached in the year 2000.

In addition, labour-management relations are beginning to be negotiated in an international context. A joint declaration on social dialogue that complies with ILO principles has been signed by employers and workers' representatives of the audiovisual industry from across the European Union in 2006. This is the first-ever international framework agreement between industry associations and worker associations in the media sector. Moreover, global frameworks on social dialogue informed by ILO conventions have also been adopted by individual media corporations such as the Quebecor (2007) in Canada and the WAZ media group (2007) in Germany (see table below, the three agreements can be found in full length in the appendices, pp. 38).

Table 2: Principles of Social Dialogue on Labour

| International social dialogue initiatives | Purpose and Principles (guided by ILO conventions) | Specific provisions (guided by ILO conventions) |
|---|---|--|
| <p>Warsaw Declaration: <u>The Audiovisual Industry on the Move</u>, Social Dialogue as a tool to tackle changing environments</p> <p>(Agreed by: Association of Commercial Televisions (ACT), Association of European Radios (AER), European Coordination of Independent Producers (CEPI), International Federation of Film Producers Associations (FIAPF), European Broadcasting Union (EBU), European Federation of Journalists (EFJ), EURO-MEi UNI, International Federation of Actors (FIA), International Federation of Musicians (FIM).</p> | <p>Social dialogue among social partners in order to foster cultural, democratic and economic success of the audiovisual sector throughout the EU (facilitates dealing with changes caused by new technologies and changing communication environments)</p> | <p>Right to free expression Provide financial and other support for effective training programs Organise information sessions about social dialogue in new EU member states Exchange information on best practices Continue working on training and new technologies</p> |
| <p>Framework Agreement between <u>Westdeutsche Allgemeine Zeitung media group (WAZ)</u> and <u>International Federation of Journalists/European Federation of Journalists (IFJ/EFJ)</u></p> | <p>Defense and promotion of press freedom, quality journalism and sound industrial relations in WAZ Mediengruppe operations, observance of internationally recognized human rights and labour standards</p> | <p>No discrimination Freedom of association Right of free expression Right to collective bargaining</p> |
| <p>Joint Statement of Respect and Promotion of International Labour Standards between <u>Quebecor World Inc. and UNI Global Union</u></p> | <p>Good industrial relations, respect and observance of internationally recognized human rights and labour standards throughout Quebecor's operations and subsidiaries</p> | <p>Employment is freely chosen No discrimination No child labour Freedom of association Right to collective bargaining</p> |

Since the ILO is a non-governmental organization, its overall perspective on policy-making is less dominated by a neoliberal agenda that often characterizes policy-making by governments of Western industrial countries today (which puts *economic* goals first and tends to realize them mainly through deregulation). Rather, it takes on a *social* perspective that puts workers and workers' rights first and sees a continued interventionist role of the state in protecting them. The ILO is more outspokenly critical than national or supra-national governments (examples would be Canada and the EU) in evaluating the situation of workers in the cultural sector:

Social security coverage is generally poor in this sector, given the short-term or precarious nature of much employment, and the prevalence of freelance, self-employed, informal and other arrangements (ILO, Social protection, 2008).

This statement is supported by evidence found in publications that the ILO has commissioned over the past years. These research reports have explored, among other things, the working conditions of musical performers in Asia and Latin America, the working conditions of actors working in the international production industry, the changing nature of work in journalism and the work situation of live performers (ILO, Selected ILO publications, 2008).

The ILO points out how several of its recommendations and conventions could alleviate – in those countries that have ratified them – the precarious situation of many cultural workers. We will mention two examples here. The **Private Employment Agencies convention** protects workers and jobseekers who are employed by such an agency. The convention covers all categories of workers (except seafarers) and ensures that these workers receive adequate protection with respect to minimum wages, working time and statutory social security, and have the right to collective bargaining. A **Recommendation on the Employment Relationship** (2006) aims at establishing standards for categorizing the myriad employment relationships between employers and workers that proliferate today, especially in the creative sector. This is of uttermost importance for those workers that are self-employed or in short-contract or independent work relationships - which often means that they are “locked out of social security schemes and have limited access to benefits such as paid holidays, maternity leave, and safety and health protection” (p. 89). The Recommendation's intent is to enable workers to determine if they are involved in an employment relationship or not and what the nature of this employment relationship is. This helps asserting associated rights. Another goal of the recommendation is that standards for all types of contractual arrangements are developed and that it is clearly stated in all contracts who is responsible for the worker's protection. Thirdly, the ILO has adopted a **Declaration on Fundamental Principles and Rights at Work** (1998). In contrast to ILO conventions or recommendations, the declaration is binding for all states who have accepted the ILO constitution and no explicit ratification of the declaration by individual states is thus necessary. The declaration guarantees the following rights to all workers in all states: Freedom of association and the effective recognition of the right to collective bargaining, elimination of all forms of forced or compulsory labour, effective abolition of child labour, elimination of discrimination in respect of employment and occupation.

Lastly, the ILO is spearheading an increasing recognition internationally of the social and economic value of volunteer work. The ILO is convinced that the exploration of volunteer work can help us to better understand the amount, characteristics and trends of the participants in the labour market at large (World Volunteer Web, 2008). Volunteer work is currently not included in labour force surveys of any countries or regions (to our knowledge). A major goal of the ILO is

to see volunteer work included. These efforts are especially relevant to the creative sector which typically includes a significant proportion of volunteers and amateurs who are remunerated informally, through non-financial means, or not at all. At the International Conference of Labour Statisticians in Geneva in December 2008, the ILO presented a *Manual on the measurement of volunteer work* (2008) that it has developed to serve as a guideline for countries around the world in designing future labour statistics. The Manual defines volunteer work as work that is done not for one's own benefit or the benefit of one's immediate family, without significant remuneration, and work that is non-obligatory and non-compulsory (pp.10). The Manual also contains strategies that help researchers to classify volunteer work by industry and sector and recommends a combination of the International Standard Classification of Occupations combined with the self-classifications that volunteer workers use in interviews.

To assess the value of volunteer work, a four-week reference period (instead of one week for regular labour surveys) is suggested for the survey questions and the interviewee is supposed to report both the frequency of their activity and the hours spent. Furthermore, the Manual provides researchers with a core survey module that contains concrete questions as well as a coding book.

3. Interviews with experts in creative labour and labour in general

3.1 Methodology

For this section of our report, we interviewed seven experts in policy-making for creative labour and three experts in general labour regulation. These policy experts are currently or have been leading representatives of organizations, associations, or unions that advocate for and, in some cases, offer membership benefits for creative workers. We also interviewed researchers that work for think tanks and one university professor (see appendix, p.39). All of our interview partners work for organizations within Canada and are experts for creative labour or general labour regulation in Canada, identified through peer referral or by published contribution in the field. The qualitative interviews lasted between 35 and 45 minutes and were conducted via telephone, between February 12 and February 27, 2009. The interviews consisted of five open ended questions for each policy expert (see appendices, p. 38).

Firstly, we asked the policy experts to comment on the impact of the current recession on creative labour. Additionally, we wanted to know what, from their perspective, is the best way to advocate for creative labour – emphasizing the special needs of the creative labour force or promoting general labour policies? Thirdly, we explored if there is an awareness in Canada of the “flexicurity” concept that is popular in Europe. Moreover, we asked if the four policy categories that define flexicurity in the EU – contracts, life-long learning, active labour market policies, modern social security systems – are adequate categories for promoting non-standard work. Finally, our interview partners outlined measures that they think should be taken to advance flexicurity for the creative labour force.

3.2 Impact of the current recession on creative labour

Most of the policy analysts think that the current economic recession (winter/spring 2009) has a negative impact on the creative sector in Canada (see Table 3 below). A forthcoming report (

Fall, 2009) from the Conference Board of Canada is intended to address the impact of the recession on the sector. As a professor in labour regulation from the University of Victoria as well as a leading representative of the Canadian Policy Research Networks (CPRN) point out, non-standard jobs - which are dominant in the creative sector - are particularly affected by the recession since these jobs have the least protection. For example, approximately half of the artists who are members with the BC Alliance for Arts and Culture (BCAAC) are self-employed. Thus, “no welfare system catches them when they lose their job” (policy analyst with the Alliance). A researcher with the Canadian Centre for Policy Alternatives (CCPA) points out that “precariousness will increase, especially for creative workers since the funding they receive is often project-based and not long-term funding.”

In contrast, those that lose regular full-time jobs are expected by several labour experts to move into self-employment which means a loss in security. Another consequence of the economic downturn is suggested in the interviews. Two policy experts fear that parts of the cultural labour force may move into non-cultural work.

Several policy analysts note the impacts of the recession on particular creative sub-sectors. For example, the loss in advertising revenue which broadcasters in Canada experience results in cuts to programs which, in turn, means that screen writers have less opportunities to find work. Due to their dire financial situation, broadcasters are seeking relief from some of their obligations regarding the broadcasting of Canadian Content as outlined in the Broadcasting Act. The Writers Guild of Canada (WGC) is determined to prevent this in order to protect their members. Furthermore, the province of Quebec which has a strong performing arts sector, experiences a significant decrease in the touring of artists, according to a policy expert from Union des Artistes (UdA). This is a partly a result of the current recession but also a consequence of the federal cuts to the cultural sector in 2008 (45 million Dollars).

Table 3: Perceptions of the Impact of the Recession

| Impact of the recession on creative labour | Sector is/will be particularly hard hit | The recession can also be an opportunity |
|---|--|---|
| | <ul style="list-style-type: none"> - UdA - BCAAC - labour law professor - BCAAC - ACTRA - CAJ - WGC | <ul style="list-style-type: none"> - CCCO - CIAIC - CCPA |

Another policy analyst and former leading representative of ACTRA (Alliance of Canadian Cinema, Television and Radio Artists) observes that broadcasting and film are laying off staff and that ticket sales for high-end individual performers are down. A representative from the Canadian Association of Journalists (CAJ) outlines how the recession potentially weakens the role that journalism should play in a democracy.

What suffers content-wise are investigative journalism and narrative genres – genres that dig deeper and take longer to complete. Overall, the economic crisis will cause journalists to play

safer and take fewer risks. They may not be as ready to expose scandals and wrongdoings because they don't know if they will receive any – legal or otherwise - protection from their employer in case they step on someone's feet.

In addition, according to this representative, “lay-offs are happening, especially among the youngest and brightest of journalists”, since union rules make it more difficult to lay off senior journalists. Overall, the recession is most damaging to freelance journalists since they are often no longer assigned stories or not enough stories.

However, some policy analysts perceive the current recession as less threatening or even as a period of potential opportunities for creative workers. For example, for creative workers active in the new and interactive media, the recession has not had any major impact so far, according to an industry representative at the Canadian Interactive Alliance (CIAIC). This labour expert thinks new media workers in marketing and advertising may be in danger of being laid off. Nevertheless, a general lack of skilled workers in the new media realm will encourage most employers to retain their employees. “Game designers are sought after people even in the recession”. According to the industry representative, it is possible that with increasing unemployment in other economic sectors, people will spend even more money on games and electronic media because they have more free time. The Cultural Careers Council Ontario (CCCO) finds that creative workers have been interested in improving their skills particularly over the past few months. “The history of recessions shows that people have often used these times to improve their skills. They are motivated to learn something new.” There is, however, more financial support needed from the government to assist workers to invest in training. Yet, there is a silence on this need for the creative sector in the last federal budget and recent provincial budgets (eg. Ontario). There is also the hope that the current recession may help to change the political climate overall, as a researcher with the CCPA expresses. The demonstrated failure of a neoliberal political agenda focused on deregulation could help reintroduce the legitimate role of the state as a more active policy-maker in general and for the creative sector in particular.

3.3 Familiarity *with* and evaluation of the concept of “flexicurity”

We note that while our experts were nearly unanimously aware of and conversant in the ideas of the creative economy and the elements necessary to sustain it, there is less awareness of the term “flexicurity” – suggesting it may be a European transplant that is not taking root, or inconsistent in some way with existing expert outlooks.

Table 4: Familiarity with the Term Flexicurity

| | Yes | No | To some extent |
|--|-------------------------------------|----------------------------|---------------------------------------|
| Familiarity with the term flexicurity | - CCPA - professor in labour law | - CCCO - WGC - CIAIC | - BCAAC - ACTRA - CAJ - CPRN |

Out of the ten industry representatives and policy experts we interviewed, two are familiar with the concept of flexicurity as developed in the European Union while five are familiar with it to some extent (Table 4 above). The four remaining policy experts had not encountered the concept before. It is notable that those who are involved with traditional cultural and arts organizations know less about flexicurity while experts for labour regulation in general are able to relate to it better.

Those familiar with the concept express their critical attitude towards it. A professor of labour law at the University of Victoria puts it this way:

[The term] flexicurity is used a lot in the EU debate and signals a balance of security and flexibility. But unless it becomes clearer what it actually means I find the term useless. Under the umbrella of flexicurity, a huge range of policies is subsumed. In the case of the UK, this means largely “workfare” where people are pushed into training or work to be out of the unemployment statistics. In Denmark, in contrast, no one has the right to maintain their job but they have very high replacement rate which is fantastic. Overall, I see the EU more moving to a UK model. Flexicurity is overly biased towards wage-employment. There is no recognition of artistic goals, care work, volunteer work, socially valuable work, etc.

Two other policy analysts point out as well that the concept could be used in policy-making to download risks on workers while employers are the ones who benefit from increased flexibility. A researcher for the CCPA said:

Flexibility implies a multi-skilled, multi-tasking labour force which supposedly increases productivity and competitiveness. This is very much thought from the employer’s perspective. But flexible working hours, social security and access to knowledge and training should be offered to creative workers in return.

Where criticisms of the flexicurity concept went hand in hand with suggesting alternative or additional policy categories and policy measures, we have included these in the final section of this chapter (suggestions for a policy framework for the creative labour force). However, we believe that the term remains useful for signalling the need for broader policy coordination around protections for part-time and other non-standard work, and argue for its retention, consistent with our findings in *From ecology to economy (2008)* and the philosophy underpinning the Arthurs Report. We note that the four main policy tenets seen as constituting a full “flexicurity” approach are also supported by the interviewees.

3.4 Different strategies to advocate for creative labour

Our interviews show that there is no consensus among experts in creative labour on what rationale works best in the policy discourse when it comes to supporting creative workers. Some policy analysts emphasize the need to have policy catalogues for creative sub-sectors. For instance, although a leading representative of the CAJ describes journalists as “usually nervous when it comes to government interference”, a catalogue of rules and regulations – from the protection of sources and legal support in libel suits to access to information – would be welcomed as useful improvement of working conditions for journalists. “For now, tidbits of media and journalism law are scattered in different legislative texts.”

As a policy expert from the WGC states, different sub-groups of creative workers need different policies:

I think that a rationale should be used that stresses the distinctive issues that writers are dealing with. General labour law considerations are not that useful. We consider our writers much more as professionals than as labourers. They do not receive a daily or monthly wage but their work represents an ongoing revenue potential. A performer goes home after the performance and receives a certain amount of money for it. The professional writer works in partnership with a producer and hopes for multiple platform exploitation.

In addition to favouring policies specific to creative sub-sectors, some policy analysts – especially representatives of traditional arts and culture organizations – expressed that the creative labour force as a whole is facing particular circumstances that need specialized policy-making. A cultural policy analyst, formerly with ACTRA, put it this way:

The best perspective is that creative workers are facing unique circumstances in their work that do not apply to other parts of the labour force [such as high numbers of self-employed workers and periods of unemployment frequently alternating with periods of employment, M.G. & C.M]. This is different from a general labour policy approach but also from a special needs perspective that fishermen and farmers have used to acquire money from the government.

Using a similar rationale, a policy analyst from the CCPA suggests a “sectoral approach” to policy-making for the creative labour force. Such an approach would identify the creative sector as a unique sector that differs from other sectors in the economy. A sectoral approach would mean a move away from an enterprise approach which is still dominant in labour policy thinking:

If artists, for example, work in the entertainment industry than they should be represented and receive benefits based on being part of this sector, no matter where they work and if they are on a long-term or short-term contract.

Policy analysts who advocate for a unique circumstances rationale – either for all creative workers or sub-groups - also tend to acknowledge the general relevance of creative labour for the work force as a whole. For several analysts this perspective is an important component of their efforts to improve policies for creative labour. They view the creative labour force as working under terms and conditions that will be more and more characteristic for the labour force of all economic sectors (policy analysts with the CIAIC and BCAAC). One policy expert states:

“[The creative sector] will represent the general attitude that we have towards the way people work and are employed. The creative sector is a sector of the future. It is by nature one of those green and clean endeavours that are increasingly valued and supported.”

This argument resembles the creative economy approaches that we have examined extensively in our previous report on creative labour (Gollmitzer & Murray, 2008). These approaches are valuable for moving beyond simple dichotomous thinking, suggesting a new complexity in the range of strategies which might be used.

Lastly, two policy advisors state that classifying creative workers as one group of vulnerable or non-standard workers would be a useful approach to policy-making. The policy advisors who voiced this view are experts not in creative labour but in labour regulation in general. This may

have caused them to take this broader approach to promoting creative labour. For example, a leading representative of the CPRN says:

I would suggest that creative workers join forces with other groups of vulnerable workers. They need to organize, through labour unions, poverty organizations and other organizations. I think creative workers in particular should have great resources to creatively market their needs and the needs of other vulnerable workers to policy-makers. The question is why contact between groups of vulnerable workers does not occur or rarely. The answer is that no group of workers, especially not cultural workers who are highly educated and motivated, like to perceive themselves as poorly paid. But the fact is that creative workers are low-wage earners and many live at the poverty line. And there is a stigma attached to poverty so no one wants to admit that they are poor.

The authors of this report are particularly heartened by the CPRN's intention to include cultural workers and their perspectives in future research programs.

3.5 Suggestions for a policy framework for the creative labour force

Taken together, the ideas for policies for creative labour voiced in the ten interviews present the outline for a fairly comprehensive policy framework. Two experts suggest that universal principles should be developed that precede the policies themselves:

The principles could be that every kind of worker should have access to collective bargaining, living wages, group insurance benefits, to disability benefits, maternity leave, etc. The funding and organization of corresponding policies and how they are delivered will then depend on the individual sector, for example, the cultural sector (Professor of labour law, University of Victoria).

The CCA in partnership with the CHRC and other key national and provincial organizations can play an important role in facilitating dialogue over the development of these principles, and it must be noted that the current Status of the Artist legislation available in some jurisdictions would not appear to be a substitute for such general principles.

Table 5: Summary of Rationales for Supporting Creative Work

| | | | | |
|--|---|---|--|---|
| Various strategies for advocating for creative labour – from creative sub-sector to general labour policies | Policies tailored to creative sub-sectors | Special circumstances rationale/ sectoral approach instead of enterprise approach | Emphasis on the general relevance (for the work force as a whole) of creative labour | Consider creative workers as one group of vulnerable workers among others |
| | - WGC - CAJ | - ACTRA - CCPA | - UdA - CCCO - CIAIC - BCAAC | - Professor of Labour law - CPRN |

Next, as one labour expert outlines, policy-making for creative workers should be considered as well as carried out more as social and labour policy than as cultural policy. This has implications for both improved funding and symbolic significance as to the importance and relevance of creative labour in a society. A close cooperation between cultural and labour ministries, as attempted successfully in Quebec, would be beneficial.

Furthermore, beyond the two major strategies to conceptualize policies for creative workers – using either a special circumstances or general rationale –, we have found two other useful strategies as described in the previous section of this report (visualized in Table 5 above). Certainly, the generalized strategy is useful in increasing awareness within the general labour policy studies community the salience of creative workers. This would classify creative workers as one group of workers with very little employment protection and social protection. Broadening the coalition would entail joining forces with groups of vulnerable or precarious workers from other economic sectors and a possible connection between creative labour and anti-poverty initiatives. The opposite (specialized) strategy would be to use a sectoral approach and consider the creative sector as requiring unique policies, just like any other economic sector (energy, auto etc.). Such an approach opens up the opportunity for creative workers to carry health and other benefits with themselves since the availability of benefits could not depend on a particular job but on the overall hours worked in the sector. The work history of the individual creative worker as well as acquired benefits could be saved on a chip. The authors find that this suggestion from the experts consulted is an interesting one, evocative of new innovations in French creative labour policies, since it changes the incentives for disclosure of non-standard casual artistic work (which under current regimes is all too often not reported).⁶ A sectoral approach to policy-making makes it a priority to help creative workers bridge the various periods of transition that they experience in their work lives (from employment to unemployment, from employment to contract work, from employment to training, from work to retirement, etc.). These periods of transition so far are a big gap in policy-making although they have become rather the rule than the exception for creative workers. Furthermore, the policy experts and industry representatives agree that a sectoral approach is suitable to protect and promote non-standard forms of employment in the creative labour force as opposed to full-time, open-ended employment.

Another strategy that we have identified in consultation with our interview partners is to emphasize the relevance of the creative sector for the economy as a whole, based on the increasing prevalence of non-standard employment situations and a lack of social security – typical for the creative sector – in all economic sectors. Obviously, however, there are well-advanced quasi-professional guilds or associations (for example, the WGC and CAJ) which argue for policies tailored to individual creative subsectors as a way to assert their creative autonomy (forth and last strategy).

With these basic conditions set up for a four-fold policy framework, we can move on to particular sub-policy categories. Using the categories of the flexicurity concept developed in the European Union, we will look at contractual arrangements, life-long learning strategies, and social security

⁶ One of our interview participants, a policy expert with the CCPA, mentioned an example of a sectoral approach to policy-making in the health care sector that was used in British Columbia, in 1996: “Due to restructuring, health care jobs were moved from facilities into communities. To facilitate this transition, an employment security agreement was reached. A placement agency made sure that workers who changed workplaces carried with them their benefits.” Similar agreements could be used for the creative sector.

measures. Since none of our interview partners commented on the fourth category outlined by the EU, active labour market policies, we do not elaborate further on this category in this report, although it emerged as important to urban labour markets and national creative economy strategies in the first report. Among the experts surveyed for the current report, it was obviously perceived as far less important than the other three categories at this time.

Starting with social security measures, there is a clear consensus among all policy experts that access to Employment Insurance should be extended to self-employed workers. Moreover, the employer share of health, maternity leave and other social security benefits for self-employed creative workers could be paid by those – producers and galleries, for example – who benefit from creative work. As one policy expert puts it:

Social security should not create a cycle of dependency but provide a safety net until the next contract or engagement is acquired. Such a system should be all about power and self-worth of creative workers.

An example of this would be a policy for performers that has been introduced in Quebec. Dancers now receive Workers Compensation in case they hurt themselves during training at a time when they are not on a contract (they had to pay for these expenses for themselves before). Other positive precedents—including the social benefits programs designed by the artists organizations such as the ACTRA Fraternal Benefit Society and le Caisse de depot at Union des artistes—are recognized as Canadian leaders. In addition, many policy experts call for an income security system, including income averaging and other tax policies. Another point of reference is copyright legislation which needs to be designed in a way that provides appropriate compensation to creative workers.

Although the social security measures just mentioned were perceived as desirable by many of the policy analysts, the majority seemed rather sceptical about the ability of current governments to realize these. For example, representatives from the CCCO and the CIAIC emphasized the overwhelming importance of life-long learning for the protection and promotion of cultural workers – especially in times where governments seem reluctant to improve social security for these workers or further advance status of the artist legislation. They describe an increased need for artists to see themselves not only as creators but also as entrepreneurs with management and business skills. For this, they need to find the right training programs. Moreover, where governments offer training measures, policy analysts recommend a shift from traditional professions (such as autoworkers) to new professions (in interactive media) to support the creative sector. If a sectoral approach to policy-making is used, then it would be easier to create rules for industry associations, individuals and governments to collectively fund training programs. Certainly, this option needs further exploration.

The third policy category outlined by the European Union is contractual arrangements. Our policy analysts found this category very important, especially because creative workers are changing jobs frequently and work with multiple employers which exposes them to new and changing contracts all the time. There is a consensus that a minimum standard for contractual arrangements should be developed to assist contract workers and self-employed entrepreneurs in negotiating their agreements. The model contract should cover not only the content of the current project that creative workers are engaged for but also set standards for working conditions such

as breaks and a limit on overtime work. The goal is to prevent poverty-level pay, long hours of work without benefits or employment security.

Although most of the suggestions that our interview partners made can be subsumed under one of the three policy categories mentioned above, the policy analysts identified some additional areas which should receive the attention of policy-makers. The first one is the need for generational sensitivity when outlining policies. For example, dancers need advice in the transition period between graduating from a ballet school or any other dancing school and becoming professional artists. An annual conference called “On the move” provides advice on financial planning, grant writing and preparing for auditions (Dancer transition resource centre, 2009). Similar conferences should exist for other groups of creative workers. Also, in contrast to the rest of the labour force, many artistic careers start early and end early. The Performing Arts Lodges in Canada (for example, in Vancouver and Toronto) offer residential space for retired artists who are frequently poor or even homeless because of a lack of access to social security systems over a lifetime (Pal Canada Foundation, 2009). Furthermore, the Artists Health Centre in Toronto specializes in the treatment of artists and creative workers. The practitioners there are experts in injuries related to artistic professions and the health centre is equipped with facilities such as an acoustic studio and a movement assessment studio. Such programs and initiatives should be available to as many artists as possible (Artists Health Centre, 2009).

Finally, one analyst suggested that traditional union rules should be revised to accommodate measures like job-sharing in times of economic downturn or to rethink privileges based on seniority that discriminate younger workers. However, collective bargaining is, overall, perceived as a vital component of a policy framework for creative labour. Two experts consulted said that status of the artist legislation should be extended beyond Quebec and the federal level and that a status of the communication worker should be introduced to reach wider segments of the creative labour force. This recommendation, made by a policy expert formerly with ACTRA and by an expert with UdA, appears to refute one of the findings of our first report *From economy to ecology*, which argued against any special status of the artist approach to the exclusion of all others. In our view, the new complexity in the taxonomy of approaches to policy-making suggests a comprehensive approach to advance creative labour, grow human cultural capital and improve cultural productivity. Such an approach must use a toolkit across each of the four strategies outlined in Table 5. Also, the great majority of our interviewees did not mention status of the artist legislation at all as policy option for creative workers; one even suggested that “status of the artist is largely meaningless in Canada”.

III. Conclusions, connections, and recommendations

Before we describe in detail the conclusions that we have come to through our work on this report, we would like to state what our hopes are concerning the effect that this report could potentially have on the cultural sector in Canada. First, having drawn together perspectives and opinions from otherwise largely disconnected stakeholders in the policy discourse on creative labour, we hope that the conversation among these stakeholders will translate from “on paper” to reality in the form of actual encounters such as informal meetings as well as conferences or roundtables. Second, the cultural sector could benefit from a combination of the four-fold taxonomy defining flexicurity in the EU as well as Harry Arthurs’ detailed and practically oriented recommendations on how the concept could be realized in Canada. In addition to a better dissemination of both EU ideas and the Arthurs report, the debate on flexicurity needs to move from the federal to the provincial level since Canada’s labour regulation is mostly provincial.

Table 6: Summary of Conclusions, Connections and Recommendations

| | | | | |
|---|--|---|--|--|
| <p>1. Comparing insights from academic research, policy documents and interviews</p> | <p>Academic research: gender inequality, challenges arising from technological change in the knowledge economy; examples of successful, non-traditional organization of the creative work force in the 21st century; growing importance of international labour regulation.</p> | <p>Policy papers: Minimum floor of protections possible for creative workers if they manage to present themselves as one group of vulnerable workers; floor of protections could include: health benefits, regulation of working time, the possibility of collective bargaining, non-discrimination of part-time work, clarification of employment relationship</p> | <p>Interviews: Understanding the complex, nuanced, and stratified nature of policy-making for creative labour (visualized in Figure 1, The Pyramid of Policy-Making)</p> | <p>All three recognize that the standard employment relationship (open-ended, full-time work for one single employer) is, to a large extent, a thing of the past and that precarious and unstable work situations have become the rule rather than the exception</p> |
|---|--|---|--|--|

| | | | | | |
|---|--|--|--|---|---|
| 2. Problem of disjointed policy discourses | gulf between the high wage and/or organized part of the creative labour force (tendency to rely on government, emphasis on security) and the low wage and/or unorganized sector (reliance on own entrepreneurial abilities, greater flexibility) | culture of entitlement and/or lack of interest in some creative sub-sectors that hinders information exchange about the general needs of the creative labour force | lack of interest in or top of mind knowledge of international policy developments in general, on the nation-state level as well as the supranational level | Increasing awareness among experts in general labour regulation concerning the importance of the cultural labour force for the overall economy and for society | lack of cooperation among culture and labour ministries; lack of communication and awareness among federal and provincial players in policy-making for creative and non-standard work |
| 3. Connections to previous report | Previous report: - concrete measures to support creative workers that exist in countries around the world - emphasis on creative economy approaches | | Current report: - Universal principles and standards, overall framework for policy-making - emphasis on labour and social security policies | | |
| 4. Policy gaps and future research | More research needed on the contribution of volunteer and amateur work to the creative sector | Inclusion of anti-poverty initiatives in policy-thinking | Attention to inequality in the creative sector concerning older artists, women, aboriginal and visible minority artists | Empirical research needed on the actual circumstances that creative workers face in their everyday life and work – no comprehensive qualitative research has so far been undertaken | |

1. Comparing insights from academic research, policy documents and interviews

One crucial question is what the policy papers as well as the academic studies and our research interviews offer when it comes to conceptualizing creative labour in labour regulation. All three sections unequivocally illustrate that the standard employment relationship (open-ended, full-time employment) – which had been the lynchpin of labour market regulation since World War Second (Fudge & Vosko, 2001) – is not the only or even the main point of reference for policy-makers and advisors anymore. A general awareness of the growing importance *of* but also the lack of rules *for* part-time, precarious, temporary and other non-standard work has emerged. This is a promising development for creative labourers since unstable forms of employment are those they encounter most commonly in their careers.

However, there also exist differences and imbalances between policy papers, academic work on labour regulation and the data gathered through our interviews. The policy papers tend to favour a flexicurity perspective which aims at balancing the social protection of workers and the competitiveness of businesses. The Arthurs report, the EU directives as well as the ILO's efforts illustrate a general will to take into account both employers' and workers' perspectives – which is understandable since the goal of these policy initiatives is to gain the acceptance of governments and other law making bodies that need to pay attention to all stakeholders. The academic literature is more critical towards employers and is clearly in favour of workers' rights. It promotes an interventionist approach that unmistakably challenges governments to invest money in the social protection of cultural workers. Also, while the policy papers frequently refer to “vulnerable workers” as needing special protection, *creative workers are not perceived as belonging in this category and are not mentioned in this context at all*. This maybe due to the fact that creative workers are better educated than the rest of the labour force but typically earn less than half the earnings of Canadian workers in other sectors (*A statistical profile of artists in Canada*, February 2009, p. 38). Rather, the general understanding of “vulnerable worker” in the policy papers discussed seems to include mostly low-wage jobs, the temporary help industry and types of labour and physical work that do not require higher education or prolonged professional training. In contrast, the academic literature indicates the special “vulnerability” of creative workers by referring to a larger context of challenges consisting of the knowledge economy, globalization, digital technologies, and deregulation, among other determinants. As far as the interviews are concerned, there is a gap between the world views, language and knowledge of policy repertoires between experts in general labour and experts in creative labour. Thinking in a broader framework, the former suggest categorizing creative workers as one group of poor or precarious workers while the latter tend to emphasize the uniqueness of circumstances that the creative labour force faces. There are early signs of improved mutual awareness (for example at the CPRN which may include creative workers in future study) but a critical need for more exchange of information, dialogue and deliberation.

Overall, what does the review of academic studies hold in store for creative workers? Apart from alerting us to the ongoing gender inequality and challenges arising from technological change in the knowledge economy, the academic literature also names examples of successful, non-traditional organization of the creative work force in the 21st century and illuminates the growing importance of international labour regulation.

Furthermore, what have we learned from the review of policy documents on labour in the knowledge economy? The policy review has made clear that creative workers would be able to at least access a minimum floor of protections when in non-standard employment relationships – as long as they find a strategy to be perceived as a group qualifying for the category of “vulnerable workers” by policy-makers. Adding up the measures mentioned in the Arthurs report, the EU directives as well as the ILO conventions and recommendations, such a minimum floor of protections could include, among other things, access to health benefits, regulations concerning working time, the principal possibility of collective bargaining, non-discrimination of part-time work, and the clarification of the nature of the employment relationship. In addition, media workers in particular could benefit from the ILO's advice on new forms of social dialogue and non-formal collective bargaining in an environment where stable, long term and full-time work is becoming a rare commodity. Moreover, the ILO's efforts to include volunteer work in labour statistics should boost the claim about the overall importance of the creative labour force since it has traditionally included a high number of amateurs and volunteers.

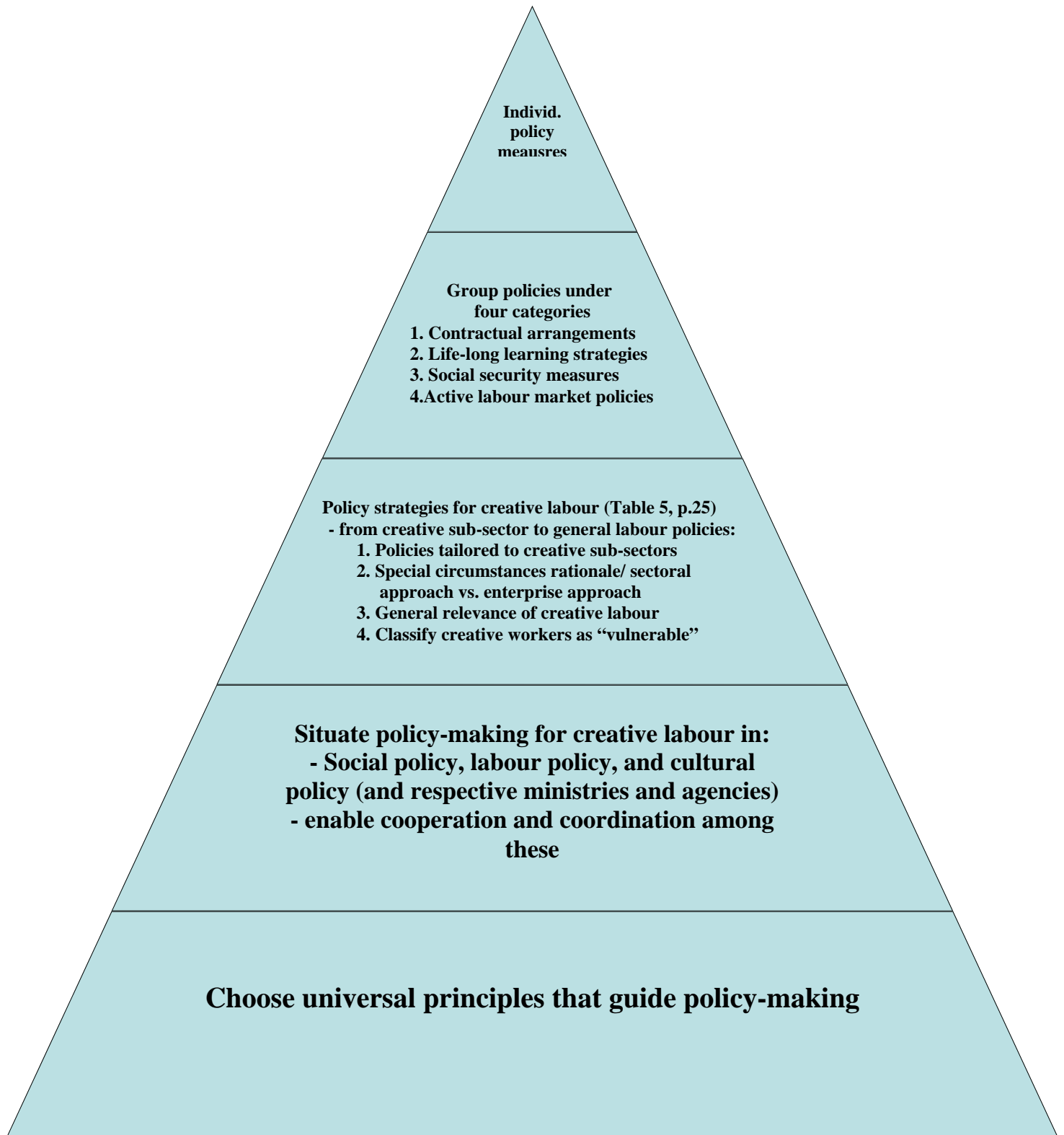
The policy papers also helped us to conceptualize the pyramid of policy-making for creative labour (Figure 1 below) of this report. However, the main contribution to the development of various components and levels of the pyramid has to be attributed to the research interviews. We developed the pyramid by summarizing and structuring the suggestions that our interviewees had for creative labour, as outlined in the interview chapter on pp. 20. The idea is to start with outlining universal principles that guide policy-making for creative labour (base level of the pyramid). In the next step, decisions concerning the integration of creative labour regulations in social, labour, and cultural policy are to be made. Subsequently, four major strategies to advocate for creative labour are explored and used individually or in combination. Then, policy-thinking about individual measures is structured by the four policy categories (contracts, education and training, social security, labour market policies). In the last step, having arrived at the top level of the pyramid, individual policy measures are conceptualized and implemented. Examples of individual measures mentioned in the interviews would be workers compensation for performers (in case of injury during training in times of non-employment), the obligation of producers to contribute to the financing of training for self-employed artists that work for them, the right of journalists to protect their sources, the use of a chip that saves the employment history of creative workers, and Employment Insurance for the self-employed. Apart from this policy framework, the interviews also brought to light problems in the policy discourse on creative labour.

2. Problems in the policy discourse on creative labour

There is still a huge gulf between the high wage and/or organized part of the creative labour (represented, for example, by organizations such as ACTRA, WGC or Uda) and the low wage and/or unorganized sector (for example, new media workers and interactive artists or the invisible self-employed). Traditional unions and associations which offer benefits to their members tend to emphasize the need for state intervention and social security. Non-traditional creative workers which have historically not been organized seem to expect less from governments and are relying more on their own entrepreneurial abilities and ability to access training or retraining. While traditional creative workers obviously conceptualize social protection to a large extent as something that needs to be provided by the government (illustrating a focus on *security*), non-traditional workers seem to be ready to take on responsibility of providing protection for themselves by themselves, illustrating a greater *flexibility, employability, entrepreneurialism* and sometimes even an unstated ethos of voluntary self-exploitation. Combining these two perspectives on the work ethos and working conditions of creative workers would be a way to realize the policy principle of flexicurity. However, there seems to be a rather fragmented information exchange between these two segments of the labour force and few apparent networks that bridge them. Leadership and dialogue is urgently needed if the window of opportunity in articulating a new future role of the state in economic recovery identified by some of these participants is to be realized.

Moreover, there is an increasing awareness among experts in general labour regulation concerning the importance of the cultural labour force for the overall economy and for society, thanks to popular publications such as Richard Florida's *The rise of the creative class* (2002) or

Figure 1: **Pyramid of Policy-Making for Creative Labour - From Universal Principles to Concrete Individual Measures**



the Martin-Florida study calling for more creative content in work entitled *Ontario in the creative age* (2009). For example, one policy advisor from the CPRN states that the think tank intends to pay more attention to creative labour in future research and policy advising. Nevertheless, the knowledge among general labour experts about creative labour is still limited. The same is true vice versa. Experts in creative labour are not aware of or disregard opportunities for classifying creative workers as one group of vulnerable or precarious workers in order to make the case for more social protection.

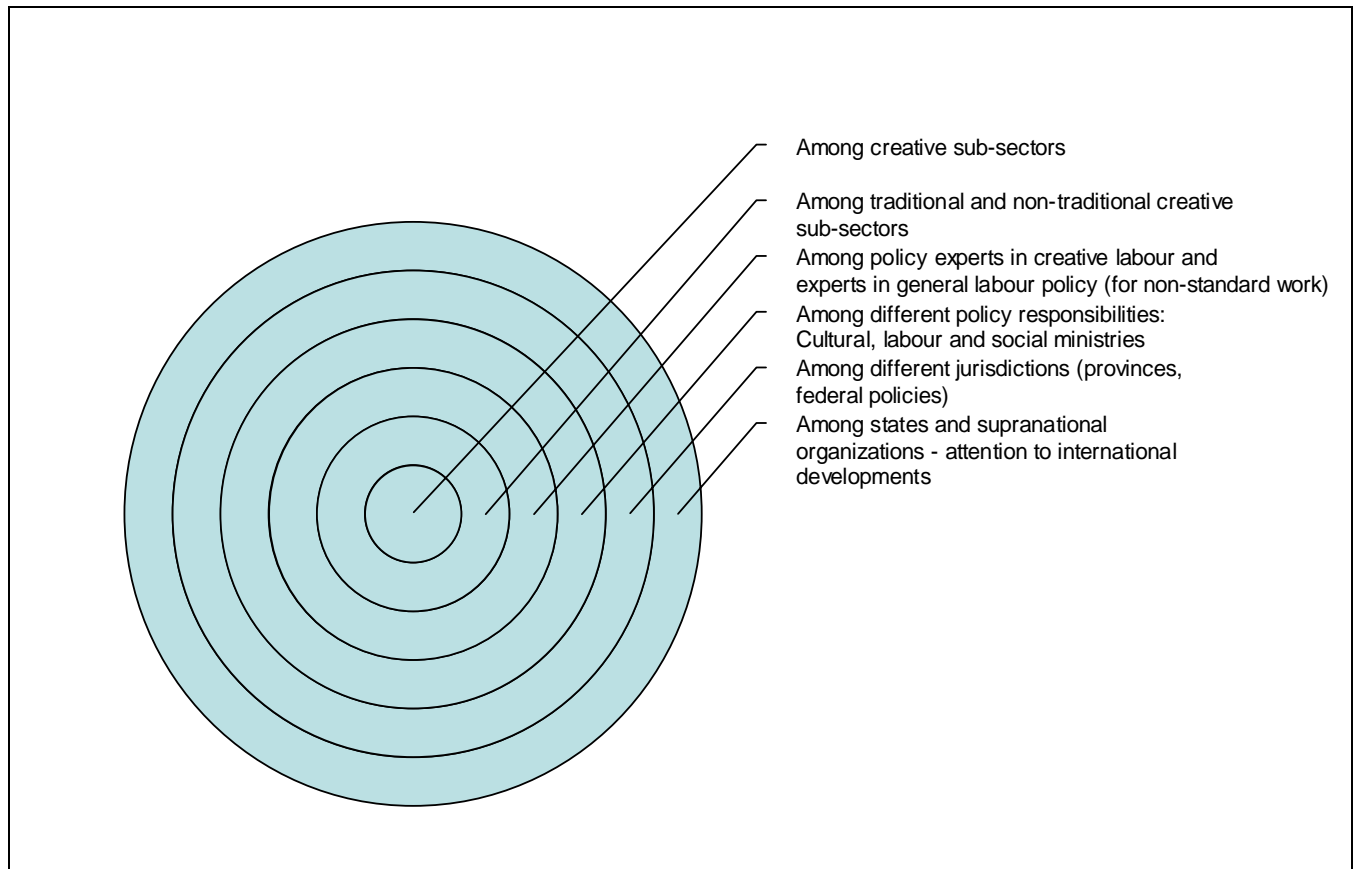
Furthermore, the policy experts that we interviewed also made clear that there is a lack of cooperation among culture and labour ministries as well as those ministries responsible for social policy within the provinces. This lack of communication and awareness seems to continue among federal and provincial players in policy-making for creative and non-standard work. There is a general knowledge among policy experts about and positive attitude towards progressive cultural policies in Quebec but developments in other provinces are not as closely observed. It would be an important priority to translate and disseminate comparative provincial approaches to labour regulation of relevance to the creative sector. Additionally, the Arthurs report which was commissioned to suggest how federal labour regulation in Canada could be modernized, has not become a point of reference for experts in creative labour despite its globally recognized significance and obviously faces dissemination challenges – not to mention implementation challenges – throughout Canada. Yet we find Arthurs' rationales elegant, the contribution to the general framework of principles valuable, and the specific proposal of a benefits bank for the advantage of all part-time work to be worthy of urgent debate. There also appears to be broad-based support among the experts surveyed for specific policy innovations with respect to assistance in transitions for serial part-time workers, income averaging, and greater clarity around the definition of various modes of employment relationships for part-time work.

Unfortunately, we noticed a lack of interest in or top of mind knowledge of international policy developments in general, on the nation-state level as well as the supranational level, which were hardly mentioned in many of the interviews. With only two out of ten interview participants being familiar with the concept of flexicurity (and some awareness among five others), this language to define a policy approach still faces a big uphill battle in Canada with respect to an overall low awareness of the term and the need to educate policy-makers.

Where knowledge of the concept was there, we noticed a small residual hostility to European versus Quebec models in the Canadian policy discourse. Once they were outlined to them, our interview participants were able to relate well to three of the four policy components that make up the flexicurity concept (contracts, life-long learning, social security). However, we were surprised by the almost unanimous disinterest in the fourth policy component developed by the EU: "active labour market policies". The potential significance of job searching services and training agencies designed to foster employment instead of subsidizing unemployment is not mentioned or recognized enough in our view, and will become more important in recessionary times.

Figure 2:

Disjointed policy discourses



Thus, policy-thinking with respect to creative labour is characterized by a variety of disjointed policy discourses. There is a lack of communication and awareness among the different parties engaged in these discourses (see Figure 2). This is a daunting finding considering the overwhelming importance of cooperation and coordination across all levels as well as among policy approaches pictured in the pyramid of policy-making. Without such cooperation, the levels and categories of the pyramid remain isolated policy silos and the full potential of a comprehensive approach to policy-making cannot be realized.

3. Connection of current report to *From economy to ecology* report (2008)

Looking back at the findings of our previous report and studying those of the current one, it becomes clear that both complement one another in the development of a policy framework for creative labour. In the *From economy to ecology* report we researched and then listed concrete measures to support creative workers that exist in countries around the world. Subsequently, we grouped those individual policies in four large policy categories (education and training, awards and contests, business support, tax and social security policies). Thus, using the pyramid of policy-making, we explored the top of the pyramid (the first two levels). In contrast, in the current report, we started with broader principles and standards, starting at the base of the pyramid and working our way upward. Thus, policy advisors or policy-makers can use the current report as a toolbox for ideas concerning overarching principles and strategies while filling

in the top level of the pyramid with their choice of corresponding individual measures from the extensive lists provided in the first report.

We have now explored both creative economy approaches (assuming that culture can be exploited to generate economic value), and labour and social security policies following the flexicurity principle (assuming that both intervention and investment by governments as well as the acceptance of more flexible forms of work by the labour force are necessary foundations of a revised policy framework). While both research foci are valuable, the second one seems more important to us in terms of working towards a more comprehensive and nuanced picture of policy-making for creative labour.

Two very recent reports that use a creative economy perspective illustrate the limitations of such an approach. First, Roger Martin and Richard Florida have just published a report prepared for the government of Ontario (*Ontario in the creative age*, 2009). The goal of this report is to outline strategies for enhancing the prosperity of Ontario in the new, idea-driven economy. Rather than focusing on the creative sector specifically, the two researchers conduct a new skill classification of the Ontario workforce in general, much in the tradition of Marc Porat who revolutionized the thinking about classification of service work before them. They divide the labour force into routine and creative workers, the latter defined to include analytic and social intelligence skills. Recommendations to the government include improved education and establishing a social safety net. Some admittedly progressive suggestions for a social safety are insurance for the period of unemployment and effective retraining programs, especially wage insurance for longer tenure workers and skill development for immigrant workers. However, those measures are particularly designed for those who do *not or cannot* yet participate in the creative economy.

Secondly, the first UN report on the creative economy was released this past year. Although the social and cultural significance of creative labour is mentioned in the UN report and, compared to the Florida-Martin report, a much broader policy framework is suggested, the main focus are global and regional trade flows. Instead of outlining social security or training measures for the creative work force, it is described how developing countries could exploit their creative sectors in order to improve economic growth (*Creative economy report*, 2008).

Clearly, the explicitly creative work force (defined along David Throsby's concentric circle model as shown in our previous report, p. 12) is not at the center of attention in either of these reports. We, however, believe that without a comprehensive framework for creative labour, a successful and sustainable development of the creative sector is not possible. The pyramid of policy-making suggested in this report has to grow both vertically (adding new levels) and horizontally (adding new information and ideas to individual levels) to understand it fully. Providing plenty of individual measures that offer small business/entrepreneurial assistance for creative workers (see previous report), creative economy approaches can certainly make a contribution to the top levels of the pyramid. However, these approaches are less useful when it comes to developing universal standards or principles for regulating work in the creative sector.

4. Policy gaps and future research

First, we have identified an encouraging emerging awareness of the value of voluntary work in general, boosted by a new framework for the measurement of voluntary work introduced by the ILO which sets international standards. Also, one of our interviewees shared the observation that the recognition of social entrepreneurship in the creative sector is growing (policy expert with the BCAAC). To our knowledge, however, there has so far been little research, not to speak of policy recommendations, which would map the contribution of amateur, non-profit or volunteer work to the creative sector. Certainly, we acknowledge that the valuation of volunteer labour is an issue that has been around a long time in Canadian cultural policy, something solidly opposed by the federal Department of Finance which has resisted any effort to implement tax benefits for volunteer time to reward volunteerism and replenish the next generation of volunteers. Nonetheless, with some parts of the sector (like Museums) heavily dependent on volunteers to remain sustainable, it will be important to see if this issue can be revived in Canada.

Second, the interviewees and authors of this report have shown that we need to pay attention to precarious labour and anti-poverty initiatives in order to improve the situation of creative workers. Citizens and even creative workers themselves have to move beyond the notion of the privileged artist who never really works but engages in activities for his or her own pleasure at the dictate of the use, generously subsidized by tax payers. Living at or below the poverty line is a reality for many creative workers and specific policies for the low-income segment in other sectors of the labour market should be examined. We recommend that the arts, culture and heritage sectors continue to collaborate with research institutions and other stakeholders identified in major public dialogues around fair wages, the notion of principles of decent work following on the Arthurs report, and the concept of “social dialogue” as a tool to manage the turbulent changes in the white water of the current global economy.

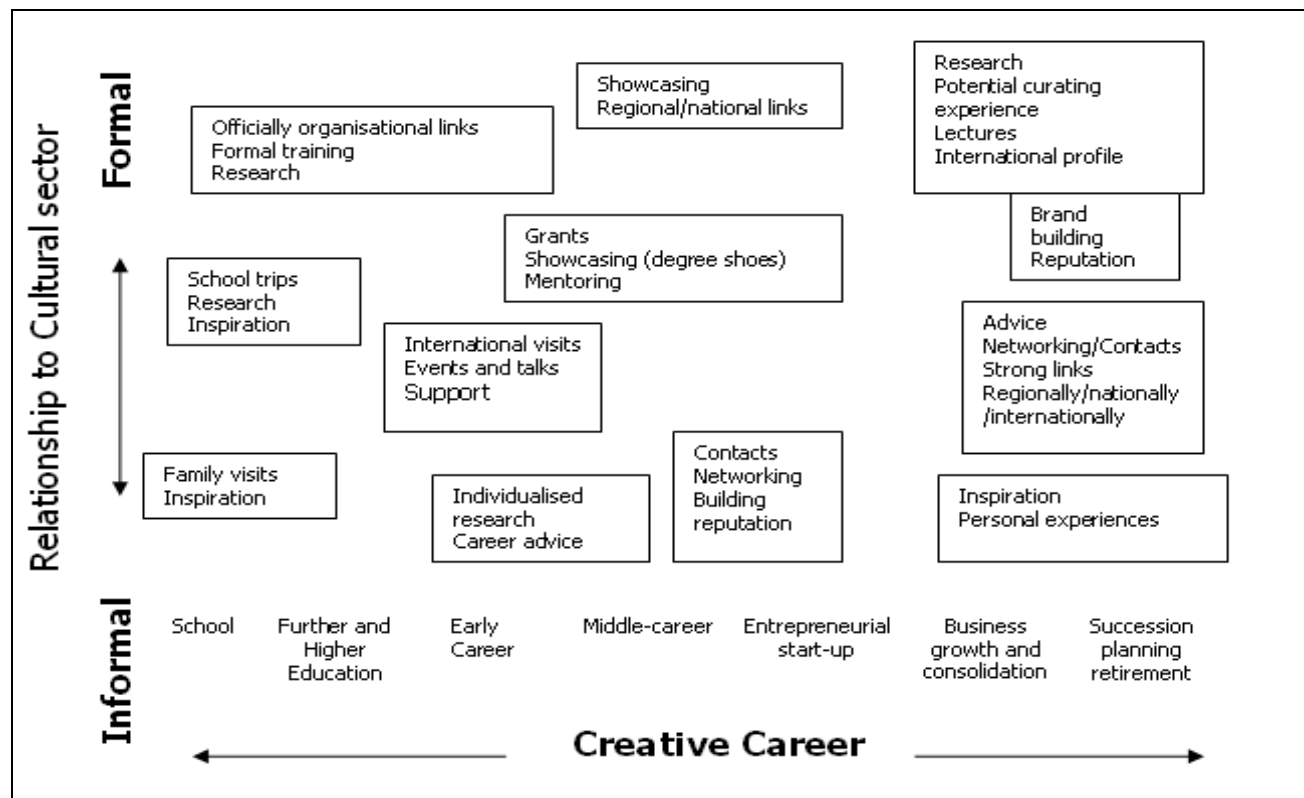
Furthermore, we have begun to problematize the situation of aging artists and older creative workers in the interviews for this study. Future research urgently needs to expand on this. Additionally, attention needs to focus on the particular challenges which aboriginal people, visible minorities and women in creative professions are facing. It will not be enough, however, to add another column, which could be called “sensitivity to generational, racial and gender issues”, to the portfolio of policy strategies for creative labour introduced in this report (Table 5, p. 22) or to add another level to the pyramid of policy-making (Figure 1, p. 26). The attention to race, gender and generational needs has to be a constant and ongoing component of all vertical (pyramid) and horizontal (columns) policy thinking. Recent statistics on creative labour illustrate the urgency of such research. Both the number of visible minority artists and the number of artists aged 45 and older has doubled between 1991 and 2006 (*A statistical profile of artists in Canada*, February 2009, p. 40). Aboriginal and visible minority artists as well as women also have much lower earnings compared to other artists (p. 39).

Additionally, the policy papers as well as some policy suggestions mentioned in the interviews presented in this report seem to be lacking descriptions of fully-fledged, practicable policy measures, ready to be implemented. Studying the EU directives on the protection for non-standard workers as well as the ILO conventions on social dialogue and working conditions, one may have the uneasy feeling that there is a shortage of concrete examples of instruments of protection. The directives and conventions outline standards more than individual measures. They are more procedural than substantive. However, their value lies in starting previously unheard of

initiatives to establish and entrench the rights of workers in non-standard employment relationships, regionally and internationally. One major insight gained from the research conducted for this report is that the development of individual policy instruments for creative workers will only be successful if rooted in universal principles that preclude blind spots in policy-making (for example, the privileging of awards and training over social safety). Researchers as well as policy-makers are only at the beginning of a process that will hopefully lead to comprehensive and more detailed international regulations for non-permanent and other vulnerable groups of workers.

Besides universal principles, more empirical knowledge about the actual circumstances that creative workers face in their everyday life and work is needed before a fully-fledged policy framework can be prepared. In-depth interviews with creative workers are therefore indispensable. Researchers in policy-making for creative labour have yet to explore the many dimensions of this research field which cannot be illuminated by asking policy experts or by evaluating statistics. Goals of such in-depth interviews with creative workers would be to determine basic demographic, work force participation and creative production roles in the creative job lifecycle, and barriers encountered in professional and inter-provincial mobility. For example, workers could be asked to map their own career cycle on the UK path that outlines the relationship between individual careers and cultural infrastructure.

Figure 3: The Relationship of the Creative Career to the Cultural Sector



Source: *Creative Economy Infrastructure Report*, provided by the UK's Creative Economy Programme (found at: www.cep.culture.gov.uk)

In addition, the role of intellectual property and the need of multi-disciplinary as well as business competencies needed in the workplace could be explored. Such research should also look into the actual working conditions of creative workers, focussing on pay, workloads, prevalence of non-standard employment relationships, high performance expectations despite insufficient training, potential requirements to multi-function, lack of security and benefits, perceived devaluation by boards, employers, government and the general public.

Social investment rather than physical infrastructure investment has been found by some recent studies to yield longer term results for economic productivity, social well being and realizing creative potential (Markusen, 2008, Markusen & Schock, 2008). It is our view that Canada can play an important international leadership role in advancing flexicurity in theory and practice, and the creators and the arts, culture and heritage sector once again can prove the valued and valuable vanguard of change.

APPENDICES

Interview questions

Question 1:

What, from your perspective, is the impact of the current recession on creative labour? What are best ways to mitigate the impacts of the recession on artists/creators/other workers?

Question 2:

There is a debate on whether the best way to mitigate these impacts is to use a special needs rationale for the creative labour force OR to advance general labour law/social policy/income security/minimum wage. What is your point of view? How can we best balance general and special labour force needs?

Question 3:

Are you familiar with the term “flexicurity” (or flexicurity policies)? How would you define it?

Question 4:

What are core policies to protect part-time/contractual workers? The EU has outlined four policy categories that it sees as pivotal to supporting people in non-standard employment situations: contractual arrangements, life-long learning strategies, active labour market policies, modern social security systems. What is your opinion on these? Are these policy categories also useful for promoting the organized/ high wage creative labour segment in contrast to part-time/self-employed workers?

Question 5:

What innovations in social security/labour/creative labour policies have you heard about recently, which you believe represent important advances in flexicurity? And, what are the urgent oversights currently? Is there anything else you would like to add?

Organizations that our interview participants are or were affiliated with:

Organizations - creative labour:

Alliance of Canadian Cinema, Television, and Radio Artists (ACTRA)

Canadian Association of Journalists (CAJ)

Writers' Guild of Canada (WGC)

Cultural Careers Council Ontario (CCCO)

Union des Artistes (UdA)

BC Alliance for Arts and Culture (BCAAC)

Canadian Interactive Alliance/ Alliance Interactive Canadienne (CIAIC)

Organizations - labour in general:

Canadian Centre for Policy Alternatives (CCPA)

Canadian Policy Research Networks (CPRN)

Law professor from University of Victoria, BC

Suggestions for policies for creative labour by organization

| | | |
|-------|---|---|
| CAJ | <ul style="list-style-type: none"> - soften some traditional trade union rules (privileges based on seniority, etc.) - copyright: freelancers should be paid for repeated use of their work - treat freelancers like employees when it comes to social security | <ul style="list-style-type: none"> - law on protection of sources - creation of collectively funded investigative journalism fund |
| BCAAC | <ul style="list-style-type: none"> - protect older artists (problem of poverty and homelessness) -> policies should be more sensitive to generational needs of creative workers - creative workers need to acquire administrative, legal, and business knowledge (creativity not enough) | <ul style="list-style-type: none"> - income and training measures needed for periods of transition (unemployment, retraining, btw. contracts, from employment to retirement, etc.), - exploit growing awareness of social relevance of cultural work, social entrepreneurship - EI for self-employed: would be good but artists are usually not unemployed but underemployed |
| CIAIC | <ul style="list-style-type: none"> - creative workers need to be creative and self-motivated to find contracts and training - creative workers need to learn how to negotiate terms and conditions of their work - develop a national digital media policy framework (models: France, UK) | <ul style="list-style-type: none"> - more government programs for retraining in the creative interactive sector (paper mill worker can become graphic designer) - main emphasis should be on training and professional development not social security (do not expect much from government anymore) |
| ACTRA | <ul style="list-style-type: none"> - EI for self-employed individuals - tax exemption on copyrighted work (first \$30,000 or so) - income averaging - Fraternal Benefit Society created by the engagers | <ul style="list-style-type: none"> - copyright: introduce appropriate compensation - income tax system (claim expenses) - help for older artists: extend programs such as Performing Arts Lodges and Artists Health Centre |
| UdA | <ul style="list-style-type: none"> - artists should be entitled to not more or less social security than anyone else (le caisse depot social benefit program) - should not be required to take on a non-artistic job - chip should hold work history of cultural workers (benefits not depending on particular job but hours worked overall in | <ul style="list-style-type: none"> -EI for self-employed workers (but nuanced approach: not based on hours worked because creative workers work less than other groups of workers) - policy making for creative workers should be regarded as and be part of social and labour policy more than cultural |

| | | |
|---|--|---|
| | sector) - extend status of the artist or complement by status of the communication worker - achieve that producers invest one per cent of their revenues from artistic work in training measures for self-employed workers | policy (labour ministry and cultural ministry need to cooperate, coordinate) |
| WGC | - income averaging - increase awareness of the particular function that cultural workers have in society | - maintain Broadcasting Act and provisions for broadcasters to produce Canadian content - maintain Canadian Television Fund and tax credits for Canadian content |
| CCCO | - focus on developing management skills - help creative workers to see themselves as entrepreneurs - turning specialists (creative workers) into generalists (business knowledge, recruitment) | - explore policies that work in other countries or regions (USA, Europe) - help artists in their old-age - lack of income averaging and social security for self-employed workers makes education and training all the more important |
| CCPA | - sectoral as opposed to enterprise approach -> portable benefits -> rules (safety, etc.) not dependent on worksite -> facilitation of periods of transition in work life | - minimum standards for work conditions (in contracts) - implementation of Artuhrs report - social security for vulnerable workers |
| CPRN | - recognize that creative workers are low-wage earners and often live in poverty - connect initiatives for supporting creative work with anti-poverty initiatives | - instead of fostering highly paid individual artists concentrate on part-time and self-employed workers - extension of EI to the self-employed - modern income security policies |
| Law professor from University of Victoria, BC | - define principles first and then policies that comply with them - principles: all workers should have access to collective bargaining, living wages, group insurance benefits, disability benefits, maternity leave, etc. -increased attention to bottom | end of labour market - increased access to unions -implementing status of the artist more widely - those who profit from creative work (producers, gallery owners) should pay employer's share of social security contributions |

Warsaw Declaration: The Audiovisual Industry on the Move, Social Dialogue as a tool to tackle changing environments
07/05/2006

DECLARATION

Conference: The Audiovisual Industry on the Move
Social Dialogue as a tool to tackle changing environments
Warsaw, 5-7 May 2006

1. The organizing bodies of the Conference consider that:

1.1 Europe's audiovisual sector, including television, film and radio, is central to cultural diversity, democracy and economic growth within the European Union and its Member States.

1.2 The social partners in the sector have a common interest in fostering the cultural, democratic and economic success of the audiovisual sector throughout the European Union.

1.3 They are committed to growth ensuring vitality and quality in the audiovisual sector.

1.4 Public service and commercial broadcasting, as well as production, are witnessing fundamental changes linked to the development of new technologies. New technologies offer both the opportunity and the need to create and invest into new forms of communication, products and new forms of delivery. With the audiovisual sector undergoing constant change and developing new business models, training is of key importance.

1.5 Effective social dialogue within the European Union at, as appropriate, the national, regional, local and/or company level is important in all matters related to the workforce, including training.

1.6 Effective social dialogue at the European level is facilitated by individual Member States having in place appropriate mechanisms and practices.

1.7 Effective social dialogue requires respect by the EU and the Member States for the traditions of national, regional, local and/or company dialogue.

2. The social partners recognise the principles of ILO conventions 87 and 98 as ratified by the EU member states and implemented under the different national laws.

3. To encourage progress, the organizing bodies of the Conference call on the EU and the Member States to:

3.1 Support effective social dialogue in the audiovisual sector at the European level, as well as within the Member States.

3.2 Encourage any initiatives where necessary and appropriate to help bring about effective social dialogue in the audiovisual sector.

3.3 Offer assistance in establishing bodies independent from the state where required and requested representing the social partners.

3.4 Encourage the social partners to contribute to social dialogue at the European level through the currently recognized channels.

3.5 Provide financial and other support for an exchange of information on procedures and practices among the social partners in the old and new Member States and the candidate countries.

3.6 Provide financial and other support for effective training programmes at European, national, regional, local and company levels.

3.7 Consult the Social Dialogue Committee, as the body representative of the audiovisual sector, on all EU employment and social policy issues which may have a direct or indirect effect on the audiovisual sector.

4. To encourage social dialogue in the audiovisual sector in all EU member states and to facilitate the integration of social partners from new EU member states into the work of the EU Social Dialogue Committee in the Audiovisual Sector and in accordance with the rules establishing the Committee, the organizing bodies of the Conference will:

4.1 Consider the feasibility to organise information sessions following up on the findings of

this conference and the project on the functioning of social dialogue in the new EU member states;

4.2 Discuss within the framework of the EU Social Dialogue Committee in the Audiovisual Sector the topics covered by the Green Paper on Labour Law;

4.3 Exchange information on best practices; and

4.4 Continue working on training and new technologies.

Agreed by: Association of Commercial Televisions (ACT), Association of European Radios (AER), European Coordination of Independent Producers (CEPI), International Federation of Film Producers Associations (FIAPF), European Broadcasting Union (EBU), European Federation of Journalists (EFJ), EURO-MEi UNI, International Federation of Actors (FIA), International Federation of Musicians (FIM).

Warsaw, 7 May 2006

Source: European Federation of Journalists, found at <http://europe.ifj.org/en/articles/warsaw-declaration-the-audiovisual-industry-on-the-move-social-dialogue-as-a-tool-to-tackle-changing>



Joint Statement on the Respect and Promotion of International Labour Standards


Enclosed is the Joint Statement on the Respect and Promotion of International Labour Standards between Quebecor World Inc. and UNI Global Union. This Joint Statement is a demonstration of a voluntary positive initiative on the part of Quebecor World Inc., stating that it is prepared to work with UNI Global Union, towards the respect and observance of internationally recognized standards throughout its operations and subsidiaries regardless of where they are located.

Quebecor World Inc. and UNI Global Union agree that this Joint Statement is not a legally binding document. The parties agree that neither party, individual, employee, group or entity shall have any legal recourse or liability towards Quebecor World Inc. based upon this Joint Statement.

SIGNED IN BARCELONA, SPAIN, ON MAY 4, 2007



Julie Tremblay
Senior Vice President,
People and Leadership
Quebecor World Inc.



Philip Bowyer
Deputy G.S.
UNI

1. Preamble:

1.1 The Company and UNI affirm their mutual interest in the development and sustainability of the Company and in good industrial relations practice derived from universally accepted agreements on human and labour rights.

1.2 The Company and UNI will cooperate to give practical effect to their common interest and will:

- Create an effective channel for an ongoing dialogue between them to advance their mutual interests; and
- Affirm and implement the principles and values derived from universally accepted agreements on human and labour rights.

2. Fundamental rights:

UNI and the Company support fundamental rights, as defined in ILO Conventions, in particular to ensure that:

2.1 *Employment is freely chosen*

There shall be no use of forced labour or bonded labour (ILO Convention 105).

2.2 *No discrimination in employment*

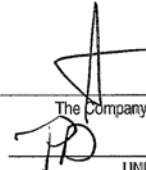
All workers shall have equality of opportunity and treatment and shall receive equal pay for work of equal value (ILO Conventions 100 and 111).

2.3 *Child Labour is not used*

Only workers over the compulsory school-leaving age shall be employed (ILO Convention 138 and 182).

2.4 *Freedom of association and the right to collective bargaining are respected*

- a) All workers shall have the right to form and join trade unions of their own choosing (ILO Convention 87).
- b) Where no trade union exists, the Company shall not prevent workers from organizing.
- c) The Company respects the right of trade unions to attempt to organize employees.



 The Company

 UNI

- d) The Company will not make the employment of any worker subject to the condition of not joining a union or relinquishing trade union membership (ILO Convention 98).
- e) The Company will not dismiss or prejudice any worker because of union membership or participation in union activities (ILO Convention 98).
- f) The Company recognizes the right of unions to represent employees and to bargain collectively on terms and conditions of employment affecting the interest of those represented employees.

2.5 Access to workers

The Company respects the rights of unions' representatives to have reasonable access to workplaces to enable them to carry out their representation functions (ILO Convention 135).

3. Health and Safety

The Company seeks to provide each worker with a clean, safe and healthy place to work.

4. Respect for others at work

The Company will endeavor to make policies aimed at creating respect at the workplace.

5. Implementation

The Company and UNI will engage in ongoing dialogue with respect to the content of this Joint Statement according to the following principles:

- a) The Company and UNI will work together to resolve any disagreement regarding the effective implementation of the principles of this joint statement;
- b) The Company and UNI will each appoint a contact person;
- c) The Company and a UNI delegation will meet as necessary but, at a minimum, once per calendar year.

6. Distribution of the Joint Statement

The Company will distribute copies of this Joint Statement within its organization. UNI will distribute copies to all its affiliates with members in the Company.

7. Suppliers

The Company will not knowingly use vendors or suppliers who willfully violate the principles of this Joint Statement.



The Company
UNI

3.

Quebecor World Inc. and UNI Global Union - Joint Statement on the Respect and Promotion of International Labour Standards

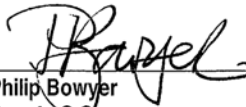
8. Application:

The principles set forth in this Joint Statement will apply to all Company operations and its subsidiaries regardless of where they are located.

SIGNED IN BARCELONA, SPAIN, THIS 4TH DAY OF MAY, 2007.



Julie Tremblay
Senior Vice President,
People and Leadership
Quebecor World Inc.



Philip Bowyer
Deputy G.S.
UNI



Duncan Brown
UNI Graphical

Source: Unite. The union for life, found at:

http://www.unitetheunion.com/sectors/graphical_paper_media/latest_news/agreement_reached_on_promoting.aspx

Framework Agreement
Between

Westdeutsche Allgemeine Zeitung Mediengruppe (WAZ)

And

International Federation of Journalists/European Federation of Journalists (IFJ/EFJ)

*On the defence and the promotion of press freedom, quality journalism and sound industrial relations in WAZ
Mediengruppe operations*

1. PREAMBLE

1.1 WAZ is the German-based publishing and media company with business operations in several countries in Europe. The EFJ represents trade unions of journalist that organise workers in the media industry of Europe.

1.2 WAZ and the IFJ/EFJ WAZ record their mutual interest in the developments and sustainability of media and publishing enterprise in Europe and worldwide, and in the development of high quality media and journalism as well as good human resources and relations practice.

1.3 WAZ and the IFJ/EFJ agree to give effect to their common interest, and accordingly enter into this agreement to:

- create an effective channel for an ongoing dialogue between them to protect and advance their mutual interests particularly in the supply of high quality, professional and ethical media and information services;
- affirm the principles and values of press freedom and agree to work together to oppose undue political influence that may interfere with the right to publish or the free exercise of journalism;
- affirm also the value of internationally accepted labour relations and human resource practice; and
- establish a procedure for the resolution of disagreements that may arise from time to time.

1.4 In pursuance of these objectives and of advancing the interests of all stakeholders in the media industry, the parties seek to promote a media environment that is safe, humane and professional.

2 APPLICATION

This agreement is intended to apply to operations, wherever situated, over which WAZ has direct managerial control. The parties agree that no additional processes or rights other than those specified in this agreement will be imposed upon this agreement and that this agreement does not prejudice or replace any existing or future arrangements between the company and its employees nor does it override national labour law or national collective agreements.

3 FUNDAMENTAL PRINCIPLES AND VALUES

The parties respect the following principles and values:

- the promotion of universal respect for and observance of human rights and fundamental freedoms for all, without distinction as to race, gender, language, national extraction, social origin, political opinion or religion ;
- the rights of free expression with due regard to Article 19 of the Universal Declaration of Human Rights and Article 10 of the European Convention of Human Rights;
- Freedom of association with due regard to the principles underlying ILO Convention 87;
- The determination of the terms and conditions of employment through appropriate mechanisms, with due regard to

the principles underlying ILO Convention 98;

- The principles set out in the Organisation for Economic Co-operation and Development guidelines for Multinational Enterprises
- The provision of a safe and healthy working environment for media staff by the application of industry best practice;
- The promotion of good relationships with civil society and a positive and meaningful inclusive engagement with the community at large on the work of media;
- Those principles and values referred to in the UN General Secretary's initiative, the Global Compact.

4 IMPLEMENTATION

4.1 Review and Application

The parties agree to meet as often as is necessary, but at least annually, to review past practice and to preview future plans relevant to their interests, and to discuss the terms of this agreement.

The annual meeting shall consist of a group forum in which union representatives from each national unit and local management shall meet with IFJ/EFJ and company representatives to share information and to discuss issues of common concern.

A sub-committee will be established to consider the structure and content of the group forum discussions. This sub-committee shall also discuss plans and proposals placed before it by either party following any alleged breach of accepted standards of conduct that could not be resolved at the level of local and national operation.

4.2 Information Sharing and Training

The parties agree to distribute copies of this agreement throughout their organisations to each appropriate level and area, and to advise the parties of their rights and duties under this agreement.

5 ADMINISTRATION AND DURATION

5.1 The General Secretary of the IFJ/EFJ or a designated nominee and the Chief Executive Officer of WAZ or a designated nominee is responsible for the administration of the agreement.

5.2 The agreement will come into effect once signed and remains in force unless otherwise agreed or amended, or terminated by either party giving three calendar month's notice, in writing, to the other.

Signed

On Behalf of WAZ Mediengruppe: Bodo Hombach

On Behalf of IFJ/EFJ: Aidan White Date: 4 July 2007 Place: Essen

Source: International Federation of Journalists, found at: <http://www.ifj.org/en/pages/international-framework-agreements>

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<http://www.ilo.org/ilolex/english/convdisp1.htm> (conventions)

<http://www.ilo.org/ilolex/english/recdisp1.htm> (recommendations)

<http://www.ilo.org/declaration/lang--en/index.htm> (declarations)

EU directives on labour law are listed and accessible in full text at:

http://ec.europa.eu/employment_social/labour_law/directives_en.htm