

# Worker Capture in the Precarious Work Era: Reducing Turnover without Employee Commitment and Job Security

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## Article abstract

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The literature on precarious work has focused on the higher frequency of layoffs and downsizing and the shift away from the standard employment relationship over the past few decades. This paper argues that employee retention remains nonetheless a key priority for many employers, even as they become less likely to offer stable employment. In the face of increased job insecurity, researchers have shown that workers have adopted individualized career progression strategies in which inter-firm mobility plays a great role. Such strategies heighten employer concerns about employee turnover. This paper reviews the state of the literature on organizational practices that address employer concerns about employee retention. It then argues that this literature would gain from closer study of organizational practices that restrict employee mobility, which it labels “worker capture strategies.” They include non-compete and non-solicitation clauses in employment contracts, no-poaching agreements between firms, and TRAP clauses. Such practices stand out from others because of their one-sided nature and their use as a turnover reduction strategy that does not necessarily drive a sense of commitment or loyalty among employees.

# Worker Capture in the Precarious Work Era: Reducing Turnover without Employee Commitment and Job Security

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**Keywords:** job insecurity; flexible employment; careers; turnover; retention; non-compete agreements

## 1. Introduction

Since the 1980s, industrial relations scholars, sociologists and economists have studied the emergence and impact of rising job insecurity and precarious work. They have identified a broad range of employer strategies and policy shifts that aim for greater employment flexibility, and which are said to increase the risks of job loss (Hunter et al., 1993; Kalleberg, 2003; Kalleberg et al., 2000; Osterman, 1996). From the worker's point of view, this shift has resulted in increased insecurity, uncertainty and precariousness (Rodgers & Rodgers, 1989; Vosko, 2006). Meanwhile, a literature has emerged on new career models that have gained popularity in reaction to the increase in precarious work and job insecurity. These new boundaryless or protean career models emphasize inter-firm mobility and one's own employability as ways to avoid unemployment and advance one's career (Arthur, 1994; Hall, 1996; Rousseau, 1995).

Early discussions at the junction of these two literatures have identified an emerging source of tension: if employers do not offer job security and opportunities for internal advancement, they are also in no position to expect loyalty and commitment from their employees (Cappelli, 1999). The boundaryless career strategies adopted by employees *in reaction to* the diffusion of job insecurity and precarious work may therefore incur significant costs and negative consequences for employers (Stone, 2006).

Specifically, high turnover is associated with certain recruitment costs and losses of investments in employee training. In addition, traditional employment relationships fostered employee loyalty in exchange for job security also have the consequence of attenuating risks of free-riding and lack of commitment among high-skill workers whose performance is hard to monitor and evaluate (Erikson & Goldthorpe, 1992; Williamson, 1981). Now, with growing employee mobility, concerns about turnover costs as well as employee commitment and loyalty have come to the forefront (Buren, 2003; Shaw et al., 2009).

In this paper, I argue that while precarious work and new career models have been extensively discussed, a crucial gap remains in theories of employment relations at the junction of these two dynamics. Specifically, we lack an understanding of the ways employers have reacted to the tension between flexible employment strategies adopted by firms and boundaryless career strategies adopted by workers. To address this issue, I review the existing literature on strategies used by employers to address concerns about turnover and retention and highlight the tensions associated with their concomitant use of flexible employment strategies.

The core argument of this paper is that research focusing on organizational practices designed to address retention and turnover would gain from paying more attention to what I call *worker capture strategies*. Worker capture strategies are a set of employer practices that restrict employee mobility without a reciprocal commitment to job security and without necessarily aiming to obtain loyalty from employees. This includes non-compete agreements in employment contracts, no-poaching clauses in franchisee agreements, and training repayment agreement provisions. In doing so, this article aims to emphasize the importance of studying the drivers and consequences of such practices to better understand experiences of precarious work as a combination of *insecurity and immobility*.

## 2. A New Deal for Workers: Precarious Employment and Boundaryless Careers

In this section, I will discuss the end of the Fordist labour market and its emphasis on lifetime jobs in large, vertically integrated bureaucratic organizations engaged in mass production. I will identify new organizational forms and new pressures for flexibilization from technology, consumer markets, international competitors and shareholders. I will then discuss how workers have dealt with the resulting challenges.

### 2.1. Adapting to the End of the Fordist Labour Market: Emergence of New Career Models

In the USA, Canada, and other Anglo-Saxon countries, capitalist production in the post-War era was structured around large firms engaged in mass production. Technology was relatively stable, innovation progressed at a steady pace, product cycles in consumer markets were slow, and firm governance was led by managers who valued stability and increase in market shares over shareholder considerations (Fligstein & Shin, 2007). In the 1980s, this model was challenged by competitive pressures from international trade and technological change, with various scholars identifying a shift in organizational practices and employment systems toward organizational models that allow greater flexibility (Harrison, 1994; Piore & Sabel, 1984).

Many Fordist firms of the postwar era trained workers internally, and in return offered job security to ensure that workers would invest in skills that were not necessarily transferable. This is more challenging to accomplish for firms operating in an economy characterized by competition and fast-changing product markets, where skills that are developed internally risk becoming obsolete before the investment can be recouped. For that reason, the post-Fordist firms of the 1980s and 1990s increasingly relied on external hiring for skilled workers instead of developing skills in (Cappelli, 1999; Pfeffer & Baron, 1988).

One consequence of this shift was the increased frequency of layoffs and downsizing (Fligstein & Shin, 2007), including among groups of workers previously experiencing substantial job security such as managers and white-collar employees (Cappelli, 1992). Another consequence was a shift away from the standard employment relationship (SER) based on full-time, full-year, open-ended, permanent employment expected to pay a decent wage and covered by various social protections. One example of this shift includes the increased use of temporary work and other forms of non-standard employment (Carré et al., 2000; Smith, 1997). Complementary research on freelance work and the gig economy documented the new reality of self-employed workers facing greater agency and independence combined with weaker social protection, greater precariousness, and career complexity (Cranford et al., 2005; De Stefano, 2015; Osnowitz, 2010). More general theorizing emphasize the pervasiveness of risk in contemporary labour markets (Hacker, 2006).

These developments are often conceptualized as elements of a New Deal at work or a new social contract between employers and workers (Arthur, 1994; Cappelli, 1999; Kalleberg, 2009). Employers' previous commitment to job security, training, and opportunities for promotions was offered in exchange for employee loyalty and commitment to the firm. This was replaced by a new form of ostensibly more individualized and market-mediated employment relationship where employers do not offer long-term prospects within a firm, and expect workers to take responsibility for developing their skills.

However, workers faced with a breach in the job security-loyalty contract (implicit or formalized) that tied them to their employers have adapted their career strategies accordingly. Today, it is assumed that upward mobility occurs through inter-firm mobility, self-directed career goals, and

increasing one's employability, often called boundaryless or protean career models (Briscoe et al., 2012) we utilize a sample of working adults (N=362). Specifically, boundaryless careers are described as detached from organizations, and for this reason they are contrasted with traditional, organizational careers (Arthur, 1994).

This concept of boundaryless careers encompasses new strategies and attitudes among employees to adapt to employers' unwillingness to provide job security and internal mobility opportunities. This is not to say that such agentic and self-reliant career models have only beneficial impacts. Indeed, these new career models are reactive strategies traversed by uncertainty, insecurity, and instability (Arthur, 1994; Cappelli, 1999; Fuller, 2008). Boundaryless careers have nonetheless been identified as a key adaptation strategy by employees. For that reason, we can expect careers in the post-Fordist economy to be defined both by increased precariousness and risks of job loss, and by more frequent voluntary employer changes and job hopping.

## 2.2. A Puzzle: Where is the Evidence for the Emergence of a New Career Model?

Researchers have attempted to provide evidence of changing career patterns by analyzing trends over time in job stability indicators, such as job tenure duration (number of years spent with one's current employer) and separation rates (probability of voluntary or involuntary termination). Recent research shows that jobs have become less stable in the USA, the UK, and Canada (Hollister & Smith, 2014; St-Denis & Hollister, 2023a, 2023b).

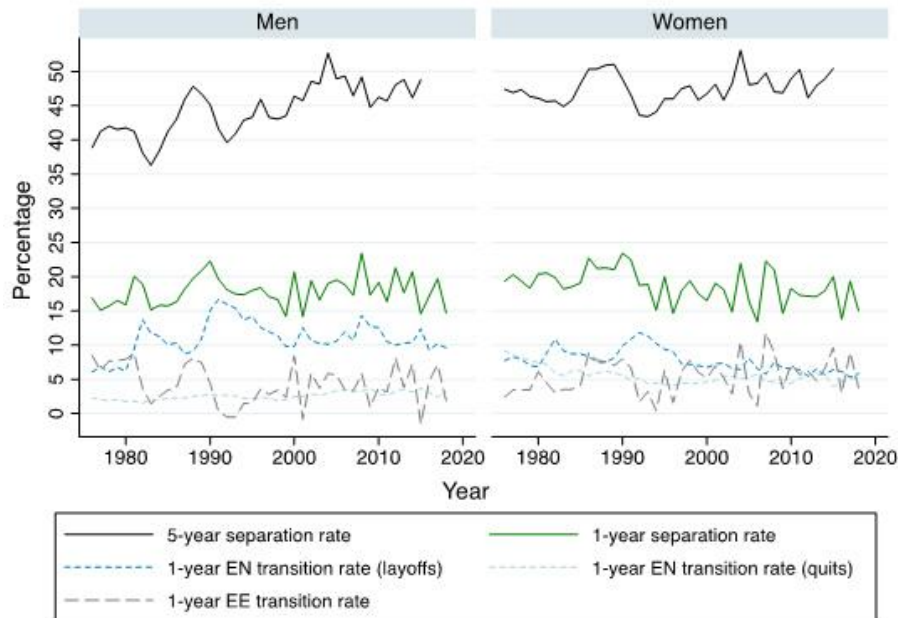
If a new boundaryless career model has emerged, the increase in separation rates should be driven by an increase in voluntary job separations, especially employer-to-employer transitions, in addition to an increase in involuntary job losses due to flexible employment practices. So far, few contributions have produced data allowing to test this prediction. In the USA, studies of the 1968-1992 period find an increase in layoffs and in voluntary job separations, especially among men with long job tenure durations (Boisjoly et al., 1998; Valletta, 1999). However, recent research finds little evidence of an increase in employer-to-employer transitions over the 1990s and 2000s (Molloy et al., 2016).

Figure 1 provides related evidence for the 1976-2019 period in Canada. It plots one-year and five-year separation rates, defined as the share of workers employed in a given year and who did not hold the same job one or five years later. We see an increase in the probability of job separation over time for men and relative stability for women (results are adjusted for changes in the sociodemographic composition of the population). Figure 1 also breaks down the results by destination of job separations. We see no clear increase in employer-to-employer (EE) transitions. Meanwhile, we find an increase in employment-to-non-employment (EN) transitions driven by involuntary terminations (layoffs, etc.) rather than voluntary quits. In other words, it is not clear that workers are adopting boundaryless career strategies, which should translate into an increase in EE transitions and quits.

These results and those from US research are hard to reconcile with the idea that a new, boundaryless career model has emerged. Therefore, one may ask: *Why are we lacking evidence of increased voluntary employee mobility?* While it is hard to attribute clear causes to long-term aggregate trends, I suggest that employers may have succeeded at reducing turnover and quits—at limiting the ability or willingness of workers to adopt boundaryless career strategies—by using a set of turnover reduction strategies that include what I call “worker capture strategies”. In the next section, I will review some supporting evidence.

Figure 1

### Trends in Job Separation Rates in Canada by Destination, 1976-2019



Note: Separation and transition rates are calculated as the share of workers employed at time 1 who experienced a job separation by time 2 (1 or 5 years later). EE rates are employer-to-employer transition rates; that is, workers who transitioned to a new employer within a year of their job separation. EN transition rates are employment-to-non-employment transition rates; that is, workers who experience a job separation and remained in non-employment one year later. Jobless workers are asked whether they quit or were laid off from their last job (this information is not available in the case of EE transitions). Estimates are adjusted to hold the age and education distribution constant at the level of 1976, the baseline year. For further details on this methodology, see St-Denis and Hollister (2023a).

Source: Canadian Labour Force Survey (1976-2019) – Calculations by the authors.

## 3. Beyond Flexibility: Challenges of Post-Fordist Organizations

As post-Fordist firms implemented flexible employment practices, they were faced with challenges posed by a new world of work where skills are “bought” on the market rather than “developed” internally. In his discussion of the decline of internal labour markets (ILMs), Peter Cappelli (2001, 237-8) notes:

There are no incentives for individual employers to move toward a model of internal development when their competitors are in the poaching mode. In fact, it would be extraordinarily difficult to retain employees, and the investments made in them, in the face of an environment of external hiring. [...] If employers find it more difficult to develop skills inside the firm, then where will those skills be developed?

Theoretical models of the flexible firm have also recognized retention of skilled employees as a core challenge. For example, Atkinson (1984) noted the need for functional flexibility (e.g., employee rotation) over numerical flexibility among skilled workers crucial to the firm, as has the literature on outsourcing (Davis-Blake & Uzzi, 1993; Kalleberg & Marsden, 2005). Likewise, HR architecture theory distinguishes between core workers, in whom firms seek to invest to develop skills internally, and peripheral workers who can be hired on contract (Lepak & Snell, 2002).

This set of concerns contrast with the vision of the post-Fordist economy that emerges from the literature focused on the “New Deal at work”. In recent years, the image used to illustrate the challenges faced by precarious workers is that of the freelance or gig economy, especially platform work. For example, the “Uberization of work” has become a common way to characterize today’s employment relations (Hill, 2015). Here, the gig economy is depicted as a large marketplace with highly substitutable workers and short-term, just-in-time exchange relationships (De Stefano, 2015), especially for low-skilled workers (Wood et al., 2019). These workers benefit from some autonomy or free agency when choosing their schedule, tasks and location of work (Sutherland et al., 2019), but they face uncertainty—the flipside of a firm’s desire for flexibility.

The recent focus on the gig or platform economy may therefore give the impression that workers were made interchangeable and disposable and that employers may not care about retention (see Fleming, 2017). Without doubt, this description accurately captures fundamental dimensions of the new world of work. However, the “Uberization of work” metaphor is proving hard to reconcile with research highlighting how employee retention and mobility remain a central concern of firms.

As argued in the previous section, flexible firms and mobile employees can be seen as two sides of the same coin in the post-Fordist economy. Just as firms have implemented flexible employment practices that result in job insecurity, they have also adopted strategies to deal with worker retention, poaching and turnover. In fact, the potential success of these strategies may help explain the puzzling trend for employer-to-employer transitions in Figure 1.

I will argue that theorization remains limited on this interplay between two firm imperatives, flexibility and retention. In the rest of this section, I will focus on this limitation and provide an overview of worker retention strategies that employers use to increase flexibility. First, I review the literature on employer practices and employment systems that aim to foster commitment and loyalty among employees. A large portion of these strategies can be categorized as “high road”: they focus on new forms of mutually beneficial investments in employees. Second, I contrast these strategies with other turnover reduction strategies that do not necessarily require employee commitment and loyalty, and which are compatible with low-road approaches often associated with precarious work.

### **3.1. “High Road” Approaches to Employee Commitment and Loyalty in the Era of Boundaryless Careers**

Below, I review research that aim to identify ways employers deal with the downsides of low commitment and high mobility among employees. First, organization researchers have focused on High Performance Work Practices (HPWP) and other high-commitment organizational models. Firms implement HPWPs to achieve internal flexibility, thus opting for functional instead of numerical flexibility (Kalleberg, 2003; Osterman, 1994). This flexibility can be achieved by adopting teamwork, job rotation, and employee involvement in decision-making. The provision of job security, performance pay, and higher levels of autonomy are often presented as strategies implemented in firms adopting HPWPs in exchange for commitment, loyalty, and reduced turnover, which in turn enables the provision of training (Appelbaum et al., 2000; Boxall & Macky, 2009; Huselid, 1995)2009; Huselid, 1995.

Much of HPWP research is based on the premise that mutually beneficial, “high road” firm practices may recreate to recreate a social contract in the Post-Fordist era that provides job security and employee loyalty (Appelbaum & Batt, 1994; Kochan & Osterman, 1994). Such practices are generally contrasted with the parallel emergence of numerical flexibility at the source of job insecurity and precarious work. Recent studies from the USA and Canada do find a negative relationship between HPWPs and both quits and dismissals (Batt & Colvin, 2011; Haines et al., 2010), but others disagree on whether HPWPs do result in employee retention (Batt et al., 2002; Morissette & Rosa, 2003), on whether job security is in fact provided (Osterman, 1994) using data on 694 U.S. manufacturing establishments from a 1992 survey, examines the incidence of innovative work practices (teams, job rotation, quality circles, and Total Quality Management and on whether HPWPs are widely adopted. These disagreements show the potential challenges of a HPWP strategy.

Second, other contributions have leveraged social exchange theory to argue that inducements and investments in employees, be they tangible (pay and benefits), or less tangible (training, job security, procedural justice and perception of fairness), can generate a sense of obligation among employees towards their employers (Shaw, 1998; Shaw et al., 2009; Tsui et al., 1997). Such inducements and investments affect turnover intentions by influencing how employees perceive the attractiveness of alternative employers. Social exchange theory researchers differ from HPWP researchers in the importance they give to psychological and emotional responses to HRM practices as a driver of voluntary turnover. For example, social exchange theory posits that monitoring and pay-for-performance will increase turnover because employees perceive the relationship with their employer as more transactional, less certain and less based on reciprocal exchange (at least for poor performers) (Batt & Colvin, 2011; Shaw et al., 2009).

A related literature on psychological contracts emphasizes a similar dynamic of reciprocal obligations, a dynamic that emerges from organizational practices and results in varying levels of employee commitment and loyalty (Rousseau, 1995). Again, the emphasis is on job security, with a concern for the emergence of a sense of mutual obligation and loyalty through implementation of such practices. Here, quits are especially likely when the employer breaks the terms of a psychological contract, which is found to occur frequently (Robinson & Rousseau, 1994).

Third, talent management research is especially concerned with how employers attract and retain high performers and access talent pools, often external to the firm (Collings & Mellahi, 2009). Framing the issue as a “war for talent,” Michaels et al. (2001) argue that “employee value propositions” and internal growth opportunities are necessary to attract and retain high performers. Various researchers note that this value proposition by employers increasingly involves providing skills and experiences that make workers employable across organizations over the long term (Stone, 2006) and which translate into commitment and loyalty over the short term (Buren, 2003). This perspective suggests that employers seek to embrace the boundaryless career strategies, especially if they cannot provide internal mobility opportunities and job security.

Finally, research on the hiring process is interested in signals of employee commitment during recruitment and selection. In particular, risks of premature employee attrition have been identified as key criteria in employee selection, such as overqualification or perceived capabilities (Campbell & Hahl, 2022; Galperin et al., 2020) overqualification. This research emphasizes the importance of the employer’s concerns about retention at the stage of applicant screening and selection.

### **3.2. Employee Retention without Loyalty and Commitment**

With the exception of the last set of studies on hiring, the research reviewed here appears to focus on “high road” strategies. While the specific mechanisms differ, employers concerned about retention, especially of skilled employees, are viewed as attempting to elicit commitment and



loyalty behaviours from their employees through a reciprocal exchange. In other words, the HPWPs and the social exchange theory/psychological contract literatures seem to encourage the adoption of the type of Fordist strategies that the flexibilization literature specifically argues are incompatible with today's labour markets: employer-sponsored training and job security. For example, much of the HPWPs literature appears to argue in favour of meeting this challenge head-on and is pointing in the direction of a new mutually beneficial social contract that finds a balance between the employer's need for flexibility and the worker's aspirations for economic well-being and job security.

While this type of strategy is certainly a manifestation of some fundamental mechanisms underlying contemporary organizational practices, it also ignores a key dynamic: in establishing flexible employment practices and resorting to frequent layoffs, many employers have broken the social or psychological contract on which Fordist employment relations were built (Cappelli, 1999; Kalleberg, 2009). Insofar as it results in job insecurity and precarious work, flexibilization can be described as one-sided, with employees subsequently adapting by adopting boundaryless career strategies. In addition, it is unclear that employers will be able or willing to move away from HRM strategies based on numerical flexibility (externalization, non-standard employment relationships, and layoffs in reaction to business downturns) given the challenges associated with successfully implementing an HRM strategy based on job security, training, and internal mobility opportunities without concomitant policy shifts (see arguments in Bernhardt et al., 2003; Kochan & Osterman, 1994).

For that reason, I argue that researchers should consider a broader set of retention strategies. In fact, there is growing evidence of *employers using "low road," one-sided strategies to achieve retention by "capturing" workers and restricting their ability to leave a firm*. This type of strategy does not require the employee's loyalty and commitment and is compatible with the employer's concomitant use of flexible employment strategies that generate insecurity and precariousness. Further, as employers leverage nonstandard work arrangements to shift the bargaining power over wages and working conditions in their favour (Cranford et al., 2005; Vosko, 2006; Weil, 2017), there is evidence of employers leveraging worker capture strategies to achieve similar goals. In the case of worker capture strategies however, the resulting constrained mobility becomes a limitation on the worker's ability to pursue beneficial boundaryless career strategies. I propose that such strategies can coexist with or complement precarious employment, resulting in an *insecurity-immobility nexus*.

### 3.2.1. Worker Capture as a Turnover Reduction Strategy for the Flexible Firm

In this subsection, I review research that forms the basis of my argument on the importance of worker capture strategies. An early version of the worker capture argument is developed by Stone (2006), who argues that employers are concerned about workers acquiring knowledge and skills developed in their firm and then going on to use such human capital at competitors later on in their career. Accordingly, such situations are prevented by non-disclosure and non-compete clauses in employment contracts, also known as non-compete agreements (NCAs). NCAs and related agreements are contractual provisions that restrict employee mobility by prohibiting employment at a competing firm for a certain length of time.

NCAs vary greatly in their content. While some have limited geographic and temporal application, others are very prohibitive in limiting where workers can use their human capital after a job separation. There may also be restrictive non-disclosure agreements to limit the use in a subsequent firm of certain types of knowledge acquired by the employee during his/her tenure. The employee's mobility options are limited accordingly. Finally, employment contracts sometimes include non-solicitation agreements to prevent a departing worker from trying to poach former

colleagues. Again, there are similar consequences for employee mobility (Balasubramanian et al., 2021; Boeri et al., 2023).

Empirical research points to a negative relationship between the use of NCAs and voluntary turnover. For example, some studies of high-skill professionals and executives find negative associations between non-competes and job mobility (Garmaise, 2011; Lavetti et al., 2020). Similar effects have been found more generally beyond specific groups of skilled workers. Lipsitz and Starr (2022) have found that after the 2008 NCA ban in Oregon the mobility of hourly workers increased by 12 to 18%. A study of another policy change in Michigan reached similar conclusions of attenuated mobility caused by non-competes (Marx et al., 2009). Studies have also shown that the enforcement of non-compete agreements leads to longer tenures. Job tenure is 11% longer among employees who have signed a non-compete than among those who have not (Starr et al., 2020) 500 labor force participants. We show that noncompetes are associated with reductions in employee mobility and changes in the direction of that mobility (i.e., toward noncompetitors. In labour markets where the level of skill transferability is low, and where NCAs are enforceable, employees stay longer in the same job (Starr et al., 2018).<sup>1</sup>

Likewise, research has highlighted the use of no-poaching agreements, especially in the franchise sector (Krueger & Ashenfelter, 2021; Levy et al., 2020; Schaefer, 2019). This type of formal or informal agreement is sometimes called a no-poaching or no-hire conspiracy in the legal literature (Polden, 2019) because of its similarity with collusion practices. Such agreements prohibit franchise establishments of the same parent company from poaching workers from each other, thus preventing bidding wars for employees in local labour markets. Assuming that skills and knowledge requirements are relatively uniform across franchise establishments, no-poaching agreements appear to be targeted at restricting outside options and controlling wage growth. No-poaching agreements may be observed outside of the franchise sector. For example, the US Justice Department has targeted Silicon Valley tech firms for allegedly agreeing to limit certain forms of solicitation/poaching (Streitfeld, 2014).

Finally, one related strategy is the use of a “training repayment agreement provision” (TRAP) in employment contracts. TRAPs compel employees to repay the cost of employer-provided training upon quitting, with amounts reaching several thousands of dollars (Harris, 2020; Lichten & Fink, 2018). This provision may represent a significant financial obstacle to employee mobility. Such practices have received attention from legal scholars, but I am not aware of any empirical work by social scientists on their prevalence and consequences for employee mobility.

At the same time, empirical work provides evidence that worker capture practices, such as NCAs and no-poaching agreements, increase investment in employee training (Meccheri, 2009; Starr, 2019; Starr et al., 2018). By differentiating different types of training, Meccheri (2009) find that NCAs incentivize firms to provide general training while reducing their incentives to provide specific training. In other words, such agreements may encourage training—a challenge for firms in the flexibilization literature—without relying on HRM practices that target loyalty, commitment, or any form of reciprocal exchange. In fact, to the extent that NCAs are not premised on providing employees with job security, they seem to be compatible with low-road HRM models for precarious work.

The dynamics of worker capture can also be observed among low- and high-skill temporary migrants hired on work permits attached to a single employer. On the one hand, employers use temporary migrant worker programs to meet their labour needs in a flexible way. On the other, these programs put stringent limitations on the ability of temporary migrants to change employer. Examples include the Canadian Temporary Foreign Worker Program (TWFP) and the H-1B program in the USA. In the case of the TWFP, the employer’s ability to terminate an employment contract (resulting in deportation) combined with the migrant’s inability to find another employer

is associated with poor working conditions, such as those documented in research on the agriculture sector (Connelly, 2023; Vosko, 2018).

### 3.2.2. Worker Capture Practices and Policies from a Comparative Perspective

The type of worker capture strategies is likely to vary across countries and subnational jurisdictions. For example, NCAs are prohibited or their use is limited to very specific situations in a series of US states, including California (Fallick et al., 2006). Yet, as US research show, they are widely used even in jurisdictions where they are unenforceable or limited in scope by law, with some observable impact on the mobility of workers fearing costly litigation (Starr et al., 2020) 500 labor force participants. We show that noncompetes are associated with reductions in employee mobility and changes in the direction of that mobility (i.e., toward noncompetitors. In some cases, the outcome of litigation is also harder to predict and depends on factors specific to the case at hand, such as the time and geographic scope of the NCA (Caenegem, 2013). In Canada, enforceability also varies across provinces. Some restrictions are imposed in Quebec (Bégin-Robitaille, 2013), and Ontario adopted legislation in 2021 to prohibit their use under the *Working for Workers Act* (Gray, 2021). That said, little to no social science research exists on the topic in Canada (Dobby, 2019).

The USA has provided the bulk of research on NCAs, on related provisions in employment contracts and on no-poaching agreements. Outside the USA, research has primarily been conducted by legal scholars who evaluate the enforceability of such agreements across national contexts (Caenegem, 2013). This does not mean that NCAs or other worker capture strategies are nonexistent elsewhere. While 18% of the US the private sector and healthcare labour force is estimated to have a non-compete clause in their employment contracts<sup>2</sup> (Starr et al., 2021), the same is true for 16% of private sector employee in Italy (Boeri et al., 2023) and 23% in the Netherlands (Stam, 2019). I am unaware of any corresponding Canadian data.

Going beyond the above international studies of NCAs, cross-national research on worker capture may also focus on practices not found in the USA. Just as flexibilization has taken different forms across countries depending on the specific political and institutional dynamics leading to liberalization efforts (Thelen, 2014), worker capture is likely to translate into a broad range of practices and strategies across national contexts and jurisdictions. This area represents a potentially fertile avenue for future research.

## 4. Discussion: Immobility as a Dimension of Precarious Work

In the previous section, I argued that worker capture practices should be conceptualized as a set of strategies to reduce turnover and possibly develop skills among employees without relying on job security and on a social/psychological contract based on commitment and loyalty. For that reason, my argument is that worker capture is *compatible* with flexible employment strategies and addresses the risks and costs associated with employee mobility in a labour market that rewards boundaryless career strategies. I aim to establish more direct links between employer practices that generate job insecurity and worker capture strategies. I argue that these strategies may be conceptualized as a dimension of precarious work.

The literature on precarious work has long emphasized that job insecurity changes the bargaining power between firms and workers and thus allows employers to circumvent or withdraw certain forms of social protection (Cranford et al., 2005; Kalleberg & Vallas, 2018; Vosko, 2006) and adjust wages downwards (Houseman et al., 2003). For that reason, being employed under a nonstandard

employment contract is often (but not always) associated with having a “bad job”—a job characterized by limited social protections, low wages and job insecurity (Kalleberg et al., 2000).

When it comes to worker capture strategies such as NCAs, some of the literature focuses primarily on how restrictions on employee mobility enable employers to develop and retain skilled workers (Stone, 2006). However, NCAs, no-poaching and TRAPs are also widely viewed as part of a set of practices and dynamics that negatively impact wages, along with employer concentration, monopsony, and occupational licensing, for example (Krueger & Posner, 2018; Mishel & Bivens, 2021). Empirical research on NCAs in the USA show that they are associated with lower wages (Balasubramanian et al., 2020; Lipsitz & Starr, 2022; Starr, 2019). This finding highlights an important dimension of non-compete clauses: they restrict outside options, limiting opportunities for upward earnings mobility through employer-to-employer transitions and undermining the bargaining power of workers in compensation (re)negotiations. It also underscores that NCAs may play a broad role extending beyond helping employers secure human capital investments and averting the loss of proprietary knowledge to competitors.

In other words, worker capture strategies restrict the ability of workers to pursue career strategies in flexible labour markets, such as boundaryless or protean career paths (Arthur, 1994; Briscoe et al., 2012; Hall, 1996; Presti et al., 2018). Nor do they, in return, provide job security or guarantee decent wages in a way akin to the social contract underpinning the standard employment relationship.

Therefore, worker capture can be seen as a one-sided employer strategy to avoid the risks associated with employee turnover, rather than as a type of reciprocal exchange. It may be seen as an example of risk shifting, along with the other dynamics and transformations described by Hacker (2006) in his monograph on the rise of economic insecurity and the erosion of social protections. In sum, one may consider worker capture to be a *dimension* of precarious work, rather than simply a strategy compatible with precarious work and flexible employment practices.

## 5. Conclusion

In this paper, I have argued that research on flexible employment in industrial relations and sociology should broaden the analysis of employer practices and their consequences for workers. Often, the literature narrows in to focus on risks of job loss and on job insecurity. Implicit in that literature are two points that would gain to be revisited: 1) employees are viewed as disposable, and turnover is not costly; and 2) employers owe their greater bargaining power primarily to the lack of formal protections for employees against dismissals. Given the parallel literature on employer concerns about employee retention and its challenges, I argue that research should aim to learn more about how employers achieve flexibility and bargaining power while addressing retention issues.

The objective of this paper is to show that a set of organizational practices that have been studied from various perspectives, and which I call *worker capture strategies*, provide a “low road,” one-sided approach to retention, in contrast to the high road approaches that have received substantial attention in the literature (HPWPs, psychological contracts, investment in employability, etc.). These low-road practices include non-compete and non-solicitation clauses in employment contracts, no-poaching agreements between firms and TRAP clauses. They restrict job mobility opportunities among workers, which additionally reduces their bargaining power over wages and working conditions in a way not unlike the impact of precarious work and lack of social protections on worker bargaining power.

In their studies of turnover reduction strategies, researchers have not paid sufficient attention to these worker capture practices and to the emergence of an *insecurity-immobility nexus*. New theoretical models of employment systems and HR architectures may prove necessary to make sense of the rise of worker capture strategies. To this end, I propose five avenues for future research.

## 6. Avenues for Future Research

The literature on HPWPs, social exchange and psychological contracts and talent management is concerned with employee commitment and loyalty as a means not only to retain employees but also to elicit effort and performance. Worker capture strategies likewise reduce turnover (see evidence on longer tenure and lower job mobility rates in section 3.2). However, we could hypothesize that they are unlikely to generate the same level or type of commitment and effort as do other practices, given their one-sided nature and the lack of job security provided in return. I would thus like to suggest several avenues for future research. A first area of further research could ask how do such strategies impact workplace relations and perceptions of employment insecurity? Could they be a driver of employee disengagement—recently referred to as “quiet quitting”—especially when workers face restrictions if they wish to quit? Or could they instead be associated with continuance commitment (i.e., commitment to one’s current employer for lack of outside options)?

Second, this paper aims to reinvigorate the discussion on employee retention in the literatures on HPWPs, HR architecture, and related organizational studies. Beyond general concerns about retention, what specific expectations and requirements do employers identify for different types of positions or workers (especially high-skill versus low-skill jobs)? What specific turnover costs and related considerations are a source of concern? For example, concerns about loss of investment in training are likely more significant in the case of high-skill jobs, but turnover remains costly for low-skilled workers (e.g., recruitment and selection). In addition, restricting outside options may depress the earnings of low-skilled workers, who are often employed by low-road firms. High-road retention strategies may seem better adapted to high-skill workers because commitment and loyalty are more important for workers whose performance is harder to monitor and evaluate. At the same time, less visible strategies, such as non-transparent no poaching agreements, may also appeal to employers of high-skill workers. Overall, turnover may be reduced through a broad mix of low- and high-road strategies for both low- and high-skill workers. This line of inquiry would help explain why employers favour HPWPs, social exchange/psychological contracts, employability-focused worker capture practices or none of these strategies, and whether we observe various combinations of them.

The decision to adopt various worker retention strategies is not taken in a vacuum, however. While worker skill level may influence whether HPWPs or worker capture strategies are implemented, the institutional context and economic environment may also play a role. A third area of future research could therefore investigate whether some strategies are more prevalent during labour shortages or in sectors with high baseline worker mobility. For example, if firms are facing a high risk of poaching and labour shortage in a context of low unemployment, they may prefer worker capture strategies because investments in more costly HPWPs or in worker employability risks being less efficient then. On the other hand, worker capture strategies may be less effective during a labour shortage because the possibility of finding work elsewhere allows workers to evade capture.

Finally, by promoting the concept of “worker capture strategies,” I aim to open the door to a fourth and related area of future research. Current research on capture strategies has narrowed in on a set of specific practices, such as NCAs. Instead, researchers could start from the concept of worker capture and document the full extent of use of such strategies, especially outside the USA. This could be done through qualitative data collection with a view to identifying a broad range of worker capture strategies across sectors and national contexts (in the last case, linking that range of strategies to the comparative industrial relations literature). Such an effort could then lead to more systematic quantitative data collection, which could in turn lead to estimates of the prevalence of a more exhaustive range of practices.

This more ambitious data collection could then enable researchers to document variations in the degrees of exposure of different groups of workers to specific worker capture strategies. We currently have very few statistically representative population-level estimates of the distribution of exposure to such strategies (the same is true for exposure to high-road worker retention strategies). This state of affairs contrasts with the rich literature on the concentration of women, immigrants and racialized workers in nonstandard employment relationships and the gig economy (Vosko, 2006). Higher-quality data on exposure to various forms of turnover reduction strategies, including worker capture, could improve our understanding of disparities in pay and job quality by gender, immigration status and educational attainment, for example.

In sum, there is still a shortage of evidence on the drivers, prevalence, and diversity of forms of worker capture. With this article, I hope to provide both a framework to situate those practices and directions for future research and theory development.

## Notes

[1] NCAs also influence employee mobility by narrowing labour market options. Using a nationally representative sample of over 10,000 US workers, Starr et al. (2018) find that workers in states with stronger enforceability of NCAs receive fewer job offers, whether or not they have signed one.

[2] With 38% having been covered by one at some point in their career.

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