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Highly Skilled Workers and Employment Risks: Role of Institutions

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Abstract: This paper analyses the construction of risk and its effects on three groups of highly skilled professionals doing project work (video game designers, freelance journalists and performing artists). Our results reveal that high qualifications are not a universal protective factor in the risk society. They suggest, rather, that the political economy of the various markets in which knowledge workers offer their services, as well as the institutions that structure these markets—or do not—is at least as important in determining the fate that awaits them when they are old or sick, and that these other factors help create, among these highly skilled workers, a variety of risk societies.

Key words: employment risk, risk society, knowledge workers, non-standard workers, project work

In his foresighted book, Ulrich Beck (1992) speaks of the 'destandardization of work,' and more specifically of the creation of a risk-fraught system of flexible, pluralized underemployment, in which both risk and the responsibility for protecting against it are being

shifted to workers. A similar logic operates in many sectors of the economy, in which atypical forms of work are multiplying. To understand contemporary transformations of work, the concepts of risk and insecurity are more relevant for analysing workers' experiences than the concept of flexibility, which reflects changes from the employers' point of view (Allen and Henry 1997).

Critics decry the homogeneous view of the risk society, pointing out that social class and gender have an influence, especially on the nature and degree of risk and on workers' resources to protect themselves. 'Risk divides,' creating winners and losers (Allen and Henry 1997) or, in other words, 'Individuals live in different types of risk societies' (Cooper 2008).

As a contribution to the effort to understand the variety of risk societies, we will concentrate here on so-called winners: knowledge workers, highly skilled professionals who work on projects that bring together short-lived teams rather than provide their services as part of a continuous-flow model. This new form of production makes it easier to shift the risk to workers and gives rise to new risks, such as the rapid obsolescence of knowledge (loss of employability) and exclusion from useful job-placement networks, which coexist with traditional social risks (illness, injury, motherhood, age).

We have not, as is too easily done, taken it for granted that highly skilled workers are automatically winners, but rather hypothesize that there are a variety of different risk situations within the knowledge economy. Based on a comparative study of three groups of knowledge workers (video game designers, freelance journalists and performing artists) in Quebec, we examine the relative share of the risk of losing income that falls to workers and employers/clients and the effects of this distribution in terms of workers' insecurity, as well as the resources they have available to deal with risk.

The first three sections of this paper set out the problem, the theoretical framework and the method. The fourth describes the distribution of risk and its effects on the workers concerned in the three occupations studied, while the fifth focuses on the kinds of resources (public, commercial, family and professional) they have available to deal with the risks of underemployment, illness or injury, parenthood, aging and the obsolescence of knowledge. The last section provides a comparative analysis of these three risk societies, in terms of power relations and institutions. We conclude that in the knowledge economy, tradable skills or a high level of cultural and social capital are a necessary but insufficient asset, mediated by power relations and institutions that affect the degree of risk as well as the level and type of protective resources.

1. Background

Employment risk results from the interaction of two phenomena. First, new forms of organization of production, work and employment, which make workers bear the entire brunt of ups and downs and uncertainty. Second, the weakening of protective institutions, whether minimum employment standards, the right to collective bargaining or protection through pooled social insurance programs. As a result of these two phenomena, individual workers are increasingly obliged to behave like contractors who make choices and must live with the consequences. The proponents of the risk society emphasize the emergence of the thoughtful, rational, informed and aware individual, able to react to such changes (Quilgars and Abbott 2000).

Although they appreciate Beck's (1986) and Giddens's (1991) groundbreaking work, many authors criticize their overly uniform understanding of the concept of risk as applied to the

world of work, pointing out that it ignores the structural effects of social class and gender: ‘The experience of employment risk is likely to be highly differential between and among different social class groupings and between men and women’ (Reimer 1998, 117). Others (Castel 2003; Cooper 2008; Quilgars and Abbott 2000) have drawn attention to inequalities in the distribution of risk and economic, cultural and social capital that can provide protection against risk. In short, we live in several risk societies (Cooper 2008), with variable degrees of risk and kinds of capital and resources required to protect ourselves.

Qualification level is often cited as one of the main structural factors of inequalities between winners and losers. Skilled workers, who have tradable skills, are considered to be among the winners (Ekinsmyth 1999; Reimer 1998). A high skill level supposedly confers considerable market bargaining power, guaranteeing high pay and ability to afford individual protection against illness and preparation for retirement; furthermore, it is supposedly associated with the human and social capital needed to navigate through this society. This is how the privatization of risk heightens the differences between those with capital and those without (Cooper 2008).

Yet researchers who have studied atypical professionals are often pessimistic, especially in liberal nations like the United States; their work reveals that although highly skilled workers are generally quite well paid, they have virtually no social protection (Barley and Kunda 2004; Benner 2002; Kalleberg 2003). While they are certainly more likely than non-professionals to be able to purchase protection on the market (D’Amours and Crespo 2004), a considerable number of new professionals lack such protection. In this respect, they are not very different from atypical non-professional workers and rely wholly on their ability to work to handle risk. When

their ability to work is affected, by illness, for example, professionals, too, find themselves in a very precarious position (D'Amours 2009).

Some studies suggest that the individual market power of highly skilled workers depends not just on their relative power with respect to purchasers of labour, but also on national job market and social protection regulations, which give self-employed workers, for example, a more or less important degree of protection against economic and social risks (McManus 2000; Meager 1994). Taking up Devine et al.'s (2000, 521) general argument that 'the privilege and power of professions can only be understood in the context of the organizations in which they are employed and the political economy in which those organizations operate,' in this paper we attempt to assess the effect of power relations and institutions on the type of risk experienced by workers with considerable intellectual capital and on their ability to protect themselves against risk.

2. Theoretical framework

The theoretical framework combines two models: that of Morin (1999) to study how risk is shared between employers (or clients, in the case of the self-employed) and workers, as well as to understand the nature and degree of risk in each occupation, and that of welfare mix (Evers, Pijl, and Ungerson 1994) to analyse the types of resources workers have available to protect themselves.

In the postwar Fordist era (1950–80), the job markets in industrialized countries were regulated by a protective institutional structure. A company purchasing labour assumed most of the economic risk, and the social risks (illness, injury, retirement) were pooled, while workers covered by collective bargaining obtained additional protection in the form of insurance plans,

maternity leave and retirement plans to which employers contributed. The share of risk assumed solely by workers was limited by the establishment of permanent, full-time employment with a single employer and by institutions: major legislative protection in continental Europe, collective bargaining on North American internal labor markets, and a social safety net of varying generosity, depending on the country, funded by income taxes and/or contributions by employers and workers.

Against the backdrop of globalization and increased competition, in the past 30 years we have seen production reorganized in a variety of ways—development of corporate networks, subsidiarization or outsourcing in which the principal firm maintains control over the final product, while at the same time passing down the chain various types of risks of loss of revenue (Morin 2005), especially the risk of occupational injury (Quinlan et al. 2001) and last, the multiplication of non-standard or atypical forms of employment (Dupuy and Larré 1998; Morin 1999), which shift an increasing share of economic uncertainty and social risk onto workers.

To study our three groups, we use a slightly adapted version of the model developed by Dupuy and Larré (1998), then Morin (1999), to study the risks associated with various forms of work organization:

- Inherent business risk – Who takes the risk of allocating resources to develop a product without knowing if it will sell?
- Performance risk – Is compensation tied to time spent working or to results?
- Employment risk – Is the employment relationship lasting or limited to the duration of the performance, exposing the worker to the recurrent risk of being unemployed or underemployed?
- Occupational safety risk

- Social risk associated with loss of income in case of illness, motherhood and ageing

At the same time, as forms of production became increasingly diversified, the institutions that assumed collective risk and helped decommodify workers (Esping-Andersen 1999) began to weaken. On the one hand, there was a decline in internal labor markets, unionization and collective bargaining, with corresponding growth in atypical employment relationships. On the other, the welfare state, and more specifically, collective means of assuming social risks, began to crumble. Responsibility for preventing risk (Dean 1997; McCluskey 2002; O'Malley 2004; Quadagno 1999) or managing it by means of commercial, family or community resources was increasingly left up to the individual. The welfare state shrank, while the welfare mix (Evers, Pijl, and Ungerson 1994)—the various state, market, family and community resources available to help workers cope with risk—expanded.

Our research question can be stated as follows: In three groups of knowledge workers who are organized into project teams—video game designers, freelance journalists and performing artists—how is risk shared along the value chain and on what resources can these workers rely for protection?

3. Method

We selected three groups of workers in the knowledge economy, which is characterized by 'the preponderance of intangible assets, activities with high knowledge content and the use of a workforce extremely specialized in producing or providing one-of-a-kind or customized goods or services, the value of which is directly related to innovation' (Chartrand-Beauregard and Gingras 2005, 2). What these groups have in common is a high level of education and coverage by the Quebec legislative and social protection system that falls within the liberal category in

Esping-Andersen's typology of welfare regimes. Generally speaking, only employees, not the self-employed, are protected by labour laws (including the right to unionize). The self-employed are not entitled to protection in case of unemployment, nor to the insurance, vacation or pension plans that employees may negotiate with their employers. Also, as in the United States but unlike Europe, labour markets for the self-employed are scarcely regulated. Professionals governed by licensing bodies and performing artists, who have a special collective labour relations scheme, are exceptions. But Canada's and Quebec's regimes have some distinctive characteristics. For example, all Canadians are protected by universal health insurance and minimum old age security benefits, and all Quebec workers (employees and self-employed) are entitled to parental leave and contributory pension plans; yet the self-employed must pay twice the contribution to obtain the same amount of protection as an employee. Moreover, the unionization rate (36,3% of employees are unionized in 2011 and 39,6% are protected by the legal extension of limited provisions of another group's collective agreement) is much higher in Quebec than elsewhere in North America and minimum employment standards play a more important role by the scope of the labour force they cover and the number of working conditions they embrace (wages, hours of work, annual leave, statutory holidays, family and parental leave, notice of termination, recourse against psychological harassment and dismissal not made for good and sufficient cause, etc.).

These three groups of workers are distinguished by the features of their segment of the labour market and the institutions that govern them: employer-employee relationship or business relationship, collective bargaining or lack thereof.

- In Quebec, most video game designers are employees. This status entitles them to the protection of minimum employment standards, and some employers offer income

replacement insurance, although these workers' extreme mobility means they hardly ever benefit from it. They have the right to unionize, but none of them have done so.

- Being self-employed, freelance journalists are not covered by labour laws or most social programs to which employees are entitled, and have no right to unionize under the Labour Code.
- Performing artists, considered in Quebec to be self-employed, are not covered by labour laws including the right to unionize under the Labour Code, but have gained a special collective labour relations scheme, derived from the Labour Code, that allows them to negotiate industry-wide minimum working conditions, including client contributions to social protection.

To document the situation of these three groups, we conducted semistructured interviews, with the addition, in the case of the journalists, of a survey questionnaire and exhaustive search of the literature.

Between February 2006 and February 2007, Martine D'Amours conducted 60 semistructured interviews on the risk-management strategies of self-employed workers: 10 with artists (musicians, authors, directors, actors, screenwriters), equal numbers of women and men, and 4 with freelance journalists, essentially in Greater Montreal. In 2008, she studied the regulation of the actors' labour market, and in particular the 20-year-old collective labour relations scheme in the performing arts sector, by combining a review of the literature and interviews with about a dozen key informants: performing artists, agents and association representatives. The case of freelance journalists was first studied qualitatively in 2002, through documentary research and interviews with some 20 freelance journalists and clients, rounded off in 2007–2008 by a survey of 118 journalists in two professional associations. The sample of 118

freelancers had slightly more women (52.3%) than men and the mean age of respondents was 42. Most of the artists and journalists surveyed were university graduates.

In summer 2008, Marie-Josée Legault interviewed 53 designers employed by large video game studios in Montreal, equal numbers of men and women; three quarters were under 35 years of age. Virtually all respondents had a postsecondary diploma or degree (close to half had an undergraduate degree or higher).

4. Risk sharing in the knowledge economy

Unlike in the Fordist era, contemporary project management has been increasingly transferring risk to workers, although the manner has differed by subsector.

4.1 Video game designers

Video game design studios produce original, one-of-a-kind products for a market constantly demanding something new. The financial risk incurred in the industry is high, given that a mere 5% of games make a profit (IGDA 2004, 22). Just 10% of games account for 90% of income. Competition is international and positions on the market are insecure and changeable. In addition to big studios worldwide, there are also swarms of small, amazingly creative independent designers. In Canada alone, there are 101 microstudios with up to 5 employees, and 149 with between 6 and 50 employees (ESAC 2011, 9).

The video game industry is multinational and dominated by a handful of big game publishers—industry giants—which have a strong aversion to risk. In Quebec, information technology is the R&D-driven industry that attracts the greatest share (46.2%) of venture capital, surpassing the health-care industry between 2008 and 2011 (Corbeil 2011, 25). Venture capital takes a shareholder approach, and any suggestion of taking a stakeholder approach is simply not

up for discussion. Publishers protect themselves against inherent business risk by taking advantage of international mobility and passing risk along the value chain, including exercising significant control over video game design studios.

Like a book publisher, a game publisher acquires the intellectual property rights to games that it thinks are promising and pays for them based on a licensing system in which the designer (studio or freelance designer) is compensated chiefly by an advance against royalties, which depend on anticipated retail sales. So the studio assumes any losses. When a small independent studio works on a game project, it assumes 100% of the inherent business risk and the designers may not get any royalties or compensation if no publisher buys the game. Big studios are better protected by the revenue from successful projects, but they, in turn, pass on a good part of the inherent business risk to the designers, through the compensation system.

In game design, the key risk factors are budget constraints, deadline and scope of order—known in project management as the iron triangle. The scope of the order is by its nature constantly changing because what it is possible or impossible to do, at what cost and in what time, is unknown at first. Generally speaking, the key to a project's failure lies in a combination of the three conditions of the *iron triangle* (IGDA 2004, 31; Standish 2009; Dosani 2001).

Labour is by far the biggest budget item. Compensation is managed to optimize costs, that is, to make them predictable and tie them to product sales. To do so, compensation is split into a fixed part, with unlimited unpaid overtime (despite the fact that employees are covered by the Act respecting labour standards), and a variable part, in the form of bonuses paid if the game is successful (Legault and Ouellet 2012). Compensation is therefore tied much more to results than to time spent working. That means designers assume the performance risk by taking on part of the inherent business risk. They respect the constraints of the iron triangle all the more

because they have a direct interest in the success of every project. Not only is the variable part of their compensation tied to it, but their reputation depends on it, and that is their primary asset when seeking new work and negotiating their fixed pay, which each worker must do individually (Legault and Ouellet 2012).

The project context increases the employment risk because every project demands competencies specific to the object to be designed; there is never any guarantee that team members will have a job once the project is over. It is easy to dismiss people if a conflict arises when there is no job security. Designers can't spend too long looking for work because they are soon shunted aside in the industry if their knowledge is out of date or they have lost their network of contacts. The health hazards most often mentioned are related to the long working hours: burnout and musculoskeletal disorders in the arms and hands from intensive repetitive use of joints are very common in this field.

4.2 Freelance magazine journalists

While freelance journalism has always existed, it expanded considerably in the early 1980s. Against a backdrop of heightened competition, accompanied by a new phase of media concentration, newspaper and magazine publishers diversified their platforms and content to cater to specialized audiences. Most content for these new media (news magazines, specialized periodicals, special inserts in dailies) is produced by an army of freelancers: journalists, photographers and illustrators, co-ordinated upstream (planning, orders) and downstream (editing, proofreading) by a small in-house team of employees.

Of course, it is the publisher that takes the risk of launching a new magazine, without knowing whether it will be popular with readers or, especially, advertisers. But this inherent business risk is mitigated by the fact that the magazine publisher is usually part of a

conglomerate, within which financial risks are shared and content is recycled on various platforms (magazines, TV channels, Web sites, CD-ROMs).

To facilitate the transfer of business risk, since 1980, publishers have tended to require freelance journalists to assign their copyright to them. Journalists must often assume the performance risk as well, because to interest a new magazine, they must come up with proposals for articles, not knowing whether they will lead to paid commissions. They are paid a flat fee per article, no matter how long it takes to produce one or more versions, because a mix of written rules (contracts) and informal practices protect the publisher and editor in chief against the risk of receiving an article of lower quality than desired. For example, an article written *on spec* is not commissioned and won't be paid for unless it is accepted for publication. Even a commissioned article is only paid for if the magazine's editorial team feels that it is what they asked for and it meets house requirements. When the editor in chief deems an article unsuitable for publication, he or she may decide to (but is not required to) offer the journalist a *kill fee*, which is a fraction (generally between a quarter and a third) of the fee initially agreed upon. The magazine keeps the article as submitted and all the rights to it.

Increasing economic concentration, the technological capability to deliver the same content on a number of platforms and the growing trend to have non-journalist contributors have reduced the overall volume of original pieces commissioned from freelance journalists, exacerbating the employment risk. And, except in a small number of cases, magazines make no commitment to give journalists any more work. In total, 58.2% of the freelancers surveyed experience frequent or occasional dry spells. The fewer regular clients they have, the higher the risk. Also, being forced to assign their copyright to the publisher deprives them of income from

publication on another platform;¹ the publisher henceforth owns any and all new value created in this way.

Freelancers, like employees, risk their safety, especially when reporting from conflict zones, or during strikes or demonstrations. Furthermore, illness (even burnout) can be caused by overwork, sometimes induced by a fear that work, and therefore income, will dry up. Illness poses three special types of problems to freelancers: the cost of health care not covered by the universal plan, income replacement during periods without work and the risk involved in withdrawing from the networks in which their knowledge and reputation are maintained.

4.3 Performing artists

Performing artists work within a kind of project management system in which their self-employment status is only the primary risk factor. Once again, the economic situation (concentration, increasing privatization of production, market segmentation) and technological developments (possibility of reproduction on several platforms, especially the World Wide Web) have had effects on the spreading of risk among the various links in the chain. On these job markets dominated by a small number of broadcasters, every project competes with a host of other projects. Experience, reputation and past success are no guarantees of future work, which depends largely on fashion and trends.

Inherent business risk is assumed mainly by producers. They are the ones committing resources in the hopes that their products will be bought by a broadcaster. While some producers pay for this preproduction step themselves, there are also some public sources of funding. Generally speaking, from the funding-application stage, production of a recorded show must obtain one or more expressions of interest from a broadcaster (Avrich-Johnson 2002, 7) who, to reduce the risk, often imposes the choice of certain star performers. Labadie and Rouet (2007)

highlight the role and growing power of distributors and broadcasters in production decisions, because marketing is so crucial, and our respondents confirmed this.

Like freelance journalists, authors, screenwriters and directors assume the inherent business risk, which consists in coming up with projects, not knowing whether they will make it to the production stage. Group agreements have helped reduce somewhat the risk of working without pay by stipulating the amount to be paid at each stage of writing. Like producers, these artists work on a range of projects at the same time, knowing that a good number of them will never be produced.

Like video game designers, artists assume the performance risk because part of their compensation is related to the performance of the work (and covered by group agreements), while another part (copyright, residual rights) depends on the success of the work. Given the media concentration that has taken place, there is a growing trend to pay a flat fee (that includes residual rights and delivery on several platforms) (Labadie and Rouet 2007). To counter this practice, which makes their members poorer, artists' associations are trying to negotiate a percentage of the revenue from delivery of the works on other platforms, especially digital, a major source of income for the industry. But this demand also has its risks; some people fear that it will lead to a reduction in performance fees.

In this sector, characterized by short-term contracts, employment risk is assumed by the artists, since, as a general rule, there is no commitment to provide them with work beyond a single performance. As in the case of journalists, this is compounded by the risk of obsolescence of knowledge and of disappearing from their networks of contacts, which can jeopardize the rest of their careers. In contrast, the role of networks in spreading reputations can also increase risk

because any information about a personal situation (illness, motherhood) liable to reduce availability may actually harm their job prospects.

The safety risk increases in some types of work that demand physical abilities, particularly for dancers, but for actors and musicians, as well. Social risk is partly pooled, through group agreements. We will come back to this in the next section.

In closing, it should be pointed out that although it is useful to distinguish the various risks analytically, they are in fact interrelated, and this is true for all three occupational groups studied. For example, underemployment or the fear of it often leads professionals not to refuse any offer of work, thus increasing their risk of falling ill; yet many people feel they should avoid overwork and exhaustion because getting sick could significantly affect their volume of work and income. But conversely, reducing their workload to preserve their health, especially as they get older, can cause serious problems of underemployment and therefore income.

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5. Welfare mix in knowledge economy

In our study of what Evers, Pijl and Ungerson (1994) term the welfare mix—the state, the market, the family and the community—we have limited the latter to the professional community which, through formal or informal bargaining with clients, can secure some kinds of protection.

5.1 Video game designers

As employees, video game designers benefit from public income support programs in case of unemployment. A small number are non-resident immigrants ineligible for employment insurance, who would have to go home if they lost their jobs.

A large proportion of respondents said that the universal Quebec parental insurance plan would be their main resource if they had a baby. But eligibility for the plan does not protect them against employment risk. Half of respondents felt that having a child would cause them major employability problems: having to cut back on their working hours, being marginalized or having their prospects for promotion jeopardized, being assigned to smaller projects.

They are also eligible for some resources paid for in whole or in part by employers. For instance, keeping current in the field is an extremely important issue, and some employers pay for professional development activities: international conferences, specialized training, intensive on-the-job training. Yet decisions about paying for professional development are arbitrary and the way people are chosen is obscure to many designers. Designers employed by the bigger studios have a group registered retirement savings plan (RRSP) to which the employer contributes, but this is unusual in the industry.

Seventy percent of major studio employees have income replacement insurance in case of illness or injury, with the level of protection chosen by the employee. Thirty percent of employees of small independent studios do not enjoy the same level of protection in case of illness or injury and would have to rely solely on government income protection plans, which means workers' compensation in the case of occupational disease or injury and income security in other cases.

Designers' pay is about 150% of that of all graduates in the same age bracket (25–34) with the same level of education, but it varies individually. That explains why, in case of unemployment, over half said they would rely on their own financial resources: savings, selling off their investments, private insurance policies taken out with their mortgage or life insurance,

selling their houses or possessions, severance pay if they are not fired, income from a company they own, bank loans.

The huge importance of individual strategies for obtaining a better position on the job market should be noted: respondents rely on their own performance, aim to ‘stay the best,’ update their knowledge, keep their portfolios right up to date and agree to work as much overtime as their leads want them to. A number of people were counting on their contacts to find another job in the industry or in a related field, most often filmmaking; others were counting on their professional or geographic mobility, having a variety of skills or being able to move at a moment’s notice. Many said they would turn to their families, spouses or friends for support between jobs or in case of illness.

Questioned about how they prepare against the risk of total loss of employment income in case of illness or injury, they said they kept in shape, paid attention to their health, were cautious, didn’t go in for extreme sports, saw a psychologist, led a healthy lifestyle, had friends and so on. In a word, they counted on themselves more than anything.

5.2 Freelance journalists

Since they are self-employed, freelance journalists do not contribute to and are not protected by the public employment insurance plan. They can join the occupational health and safety compensation plan only if they pay the employer’s contributions and, as a result, they rarely do so. Since 2006, new parents, whether employees or self-employed, are entitled to Quebec parental insurance benefits.

Not having an employer, freelancers are not eligible for disability insurance, sick leave, maternity leave or pension plans that publishers offer their employees. Unlike video game designers, who can count at least partly on their employers’ contributions, it is extremely rare for

a client to pay for a freelance journalist's training. So freelancers (92.3% of respondents) must pay for any training themselves.

Close to half of respondents are protected by their spouse's supplementary health insurance, but most have no disability insurance to cover the loss of earnings in case of illness. Private insurance policies (even the cheaper group policies obtained through associations) are deemed too expensive for the anticipated benefits. In case of illness, it is usually personal savings or spouses that fill the breach. With no income-replacement protection, some people continue working even when sick. If they need surgery, they try to schedule it so that their convalescence takes place in a slack period. Many journalists, like game designers, say that they try to live a healthy lifestyle to avoid illness.

Also, even when they are sick or new parents, freelancers must honour their commitments, or they'll lose their clients. That may mean working with a newborn in their arms, as one new mother who kept up a few of her columns said, 'because you can't neglect your clients for too long,' or passing on or subcontracting the most urgent jobs to colleagues, using informal mutual-aid systems.

The freelance journalists surveyed try to protect themselves against underemployment by developing repeat contacts with the same clients (between two and nine, for most), from which they earn an average of close to 80% of their income. This protects them from dry spells, but the weakness of the strategy is that losing one major client can put a big dent in income. To try to offset the risk of lack of work, some branch out into related fields, or even completely unrelated jobs, to put food on the table. When they find themselves without work, others rely first and foremost on their spouse or family, with the risk of dependency that that implies.

5.3 Performing artists

Performing artists, self-employed like freelance journalists, are not protected by public programs designed for employees. Yet their associations' efforts have earned them special consideration from the authorities. Dancers, for example, are protected by the Act Respecting Industrial Accidents and Occupational Diseases, even during periods of supervised training. A public program was set up to facilitate career transitions by this particular group who, due to the physical demands of their art, cannot expect to last in their profession beyond the age of 40. Finally, in recent years, the state has invested in continuing education programs for performing artists, on top of merit-based grants and subsidies.

To protect themselves against the risk of underemployment, artists adopt individual strategies similar to those of freelance journalists: recurrent contracts with the same clients and diversification. As Menger (1997) has clearly shown, artists branch out into different niches, one after the other or concurrently: acting, writing, sometimes directing. Some work in one or more artistic areas along with non-artistic jobs, sometimes teaching, sometimes little jobs simply to get by. Although diversification may ensure survival, it also entails the risk of distancing artists from their networks, and thus speeding up the spiral of underemployment. Diversification, even moving into a new profession, is also seen as a solution to the problem of aging, in these fields where subtle agism persists.

But what distinguishes performing artists from the other two groups being studied is the existence of a special collective labour relations scheme that requires producers to negotiate group agreements with recognized artists' associations. Under these agreements, clients pay a percentage of every fee into group social security plans (illness, pension) managed by the artists' associations. Yet, to be eligible for benefits, artists must have earned a certain minimum amount

from a single occupation, and there are no bridges between the different plans. What's more, only the work performed in sectors covered by law entitles members to protection, which excludes non-artistic jobs taken to make ends meet.

As a result of chronic underemployment and poor pay in the performing arts, the amount of income replacement under the plans is low for most artists. Those who have been through well-paid periods have been able to accumulate financial resources to help them deal with illness and retirement, either in the plans or on the private market. But as a rule, most have the same resources to handle risk as freelance journalists: generally low savings, perhaps a house, spouse and family. Finally, it is also largely up to artists themselves to remain employable, especially through unseen, yet nevertheless essential work, such as practising every day for musicians or learning lines for actors, which is unpaid and uncounted for the purposes of calculating social benefits.

6. Analysis and discussion

In this section, we will attempt to explain the differences between the three groups of workers by analysing them in light of two series of factors: the power of professionals versus clients, and the institutions that regulate some job markets.

6.1 Power of professionals versus clients

Video game designers work in a seller's market; the demand for labour is very high, headhunters are constantly soliciting employees and it is very easy to change jobs. As a result, the individual's bargaining power, and thus average pay, are high (Legault and Ouellet 2012), unlike in other industries, such as journalism, where clients set the rates. Yet investors have demonstrated many times over the great tendency of capital to move to countries where labour is

cheaper (Dyer-Witthford and de Peuter 2009). Despite the fact that North America is a vaunted hothouse for creative talent, this latent threat reduces bargaining power and dampens the demands of designers along with any hints of collective action to counter the problems of unlimited unpaid overtime (which transfers inherent business risk to designers, besides being illegal under the Act Respecting Labour Standards), non-disclosure agreements that limit designers' mobility and intellectual property disputes that hamper the development of a reputation.

At the opposite end of the spectrum, the risk of underemployment is ever present among performing artists, in markets where the labour supply exceeds demand. The great job insecurity of artists can largely be explained by the unequal power relationship typical of the industry: it is clearly to the advantage of a small number of clients, who can choose to do business with whomever they like on their own terms. As some respondents said, they don't often have the choice of refusing offers of work, even if they are overqualified and even if they are paid at the minimum rate of their group agreements. Collective bargaining has certainly helped establish minimum working conditions and compensation but, except for a minority of stars, artists are paid at the minimum rate under their group agreements. That explains why the average pay of performing artists is much lower than that of video game designers. For example, in 2005, actors' mean employment income was \$25,063 (\$19,992 for actresses); for male musicians and singers \$16,899 (\$11,700 for female musicians and singers) and \$22,767 for male dancers (\$10,824 for female dancers) (OCCQ 2010). There are also major inequalities between subindustries and between individuals.

Freelance journalists have a great deal in common with artists. Specialized expertise is no longer such a prized asset, as journalism is tending to become just another industry: content is

produced without any particular expertise and recycled on several platforms, thus devaluing its producers. Aside from a few big names, freelance journalists have very little individual bargaining power with respect to pay or even the obligation to sign over their copyright. In this world, attempts to establish a collective labour relations scheme have failed and only a minority of freelancers have individual bargaining power, which may explain why, according to various surveys, rates have not increased in 10 years and are much closer to those of performing artists than of video game designers.

6.2 Role of institutions

While the international literature on project work and the arts industry tells us that performance risk and employment risk are everywhere assumed in whole or in part by workers, the relative protection against economic and social risks depends on the institutional setting: the welfare regime, the legal framework for performance (employment contracts in the case of employees and contracts for services or contracts of service in the case of the self-employed) and finally collective bargaining. We will briefly review the role of these three types of institutions.

As already mentioned, the Quebec institutional framework falls within the liberal category in Esping-Andersen's typology of welfare states, with some important particularities. Some social protection schemes are universal (health insurance and minimum old age security benefits) while others (parental leave and contributory pension plans) also apply to self-employed workers, albeit at a high cost and often with lower levels of benefits, reflecting the low incomes of many of them. This explains why employees and self-employed workers in Quebec are better protected than their American counterparts, though not as well as their European colleagues.

Within this national institutional framework, employment status, or the fact that the work is governed by an employment contract rather than a business contract, is of strategic importance: employee status entitles workers to the protection of labour legislation (minimum employment standards and the right to unionize) and to employers' contribution to the protection against social risks.

In Quebec, tax credits for wages in the game industry may help support the paid employment that could confer protection on designers thus covered by universal labour laws and risk-pooling plans. But the state that generously supports the industry is sending a mixed message with regard to its own legal framework for overtime, which employers do not respect (Pereira 2009, 4). Long working hours affect workers' health, family life, productivity (due to mistakes caused by fatigue), income and equity (Burke and Fiskensbaum 2009; Campbell 2002).

While in many European countries, including France and Belgium, freelance journalists and the vast majority of performing artists are counted as employees, in Canada/Quebec like in the US they are considered to be self-employed workers. They alone assume the risk of employment, and sometimes inherent business risk as well, writing proposals with no guarantee of payment. With few exceptions, their clients contribute nothing to their protection in case of illness or injury or for retirement, either. Partly excluded from arrangements for pooling occupational and social risks, they must rely on their own or their family's resources to steer clear, or deal with, any situation that might affect their ability to work, whether temporarily or permanently. Contrary to what Kalleberg (2003) states, the lack of protection is not the same for all forms of atypical jobs, except perhaps in the United States, where employee status affords very little protection.

Performing artists benefit from a legal framework requiring that public and private producers negotiate group agreements with recognized artists' associations, an exception among the self-employed in Quebec, and among the cultural sector in North America. Negotiated group agreements provide for client contributions to social protection in case of illness and for retirement but the degree of protection depends on income level and repeat work in a sector covered by the law, with no chance of accumulating hours worked in various other occupations for the purposes of the protection. That explains why, for most artists, these plans provide no more than a fairly low level of income replacement. Collective bargaining has led to the recognition of new stakeholders (performing artists' associations), which, beyond their role of bargaining agent, advocate for legislative changes. This explains why performing artists have managed to obtain (partial) protection from public sources to cope with the risk of occupational injury and obsolescence of knowledge, unlike freelance journalists who, although having unsuccessfully struggled for years to gain a similar framework, are generally left entirely to their own devices.

Although institutions do provide, to varying degrees, some forms of limited risk protection, it is still very inadequate, and it is taken for granted that workers will be able to afford to buy their own protection. But access to and the degree of such protection are related to earnings: professionals with strong market power and low risk of underemployment can often afford it. But for many professionals, as for workers who do not have the same skill levels or capital, to paraphrase Castel (2003), protection will be collective or non-existent. This observation is significant because the political responses to problems raised by the risk society will depend on the way those problems are defined: Should they be attributed to a lack of individual resources or an institutional failing?

Conclusion

The video game designers, self-employed journalists and performing artists in our research projects have a great deal in common. First of all, they are highly educated, very often having an undergraduate degree, and develop unique items as part of fixed-length projects that call for specialized skills, placing them squarely in the knowledge economy. Furthermore, having no guarantee of further work, they must assume a good part of the uncertainty inherent in the market and their personal lives (health, family) and absolutely must keep up their employability and networking in order to maintain their positions on the market.

Without denying the importance of tradable skills and the human and social capital that enable individuals to pursue mobility, we wanted to further study the diversity of situations coexisting among knowledge workers. Our results reveal that the lot of these professionals is far from being uniformly attractive and that high qualifications are not a universal protective factor in the risk society. They suggest, rather, that the political economy of the various markets in which knowledge workers offer their services, as well as the institutions that structure these markets—or do not—is at least as important in determining the fate that awaits them when they are old or sick, and that these other factors help create, among these highly skilled workers, a variety of risk societies.

Among the professionals we have studied, the best paid and protected in case of inability to work are video game designers, when they enjoy employee benefits and significant individual market power. Yet if the industry's economic situation were to change and that power were eroded, those employees would be heavily disadvantaged without a collective bargaining scheme like that of performing artists. But the mobility of venture capital has kept them from undertaking such an initiative so far. No matter how prosperous this booming industry, which

has now outstripped the movie industry, inherent business risk is transferred to designers by means of a two-tier compensation system with royalties that is in contradiction to their status as employees because part of their work (overtime) may be unpaid.

Except for a small number of stars, self-employed performing artists have no individual market power, but do receive a minimum of protection through collective bargaining on those minimum standards. Finally, freelance journalists have nothing but their own individual market power, which is weak in most cases.

In all three cases, the stars stand out by escaping the worst conditions of the transfer of performance and employment risk, while most others must assume it. Consistent with the results of earlier studies (Benner 2002; Barley and Kunda 2004; D'Amours 2009), professionals (whether self-employed or atypical employees) who are not in a favourable market position, and even some of those who are, have no more protection against risks than non-professionals and non-unionized workers. Diversification into several fields or subfields, holding several jobs, meticulously maintaining ability to work, employability and networks are the ultimate resources for coping with periods of underemployment as well as aging. We consider that these conclusions have a potential of generalisation; they could apply to other sectors of employment in the knowledge economy: finance, business consultancy, higher education, cultural industries, special events organization, and so forth, that share some determinant characteristics with the sectors we have studied. This requires to study these fields more painstakingly (examining in particular if those workers are considered as employees and have an access to collective bargaining, which is the case for contingent faculty members in Quebec) and aims at developing a model of coping with risk among contingent highly skilled workers.

While the institutions protect against risk, they are not enough. It is essential to note that the institutions that regulate some atypical job markets today, like employment relationship and collective bargaining, do not have the protective effect of those that wound up *decommodifying* most workers in the postwar period. When applying to contingent workers, protective institutions cover only the limited duration of the employment relationship. Both the definition of employee status and the collective bargaining schemes are ill suited to the mobility of these workers and the short terms of their job performances. Thus, video game designers benefit from social programs when they are employees, but many in the industry are small independent contractors. Furthermore, many employed designers are heavily disadvantaged by their international mobility because all risk-pooling plans are national. On the other hand, the benefits allowed to performing artists under group agreements within the national framework show obvious limits: they are tied to income level, which is itself tied to frequency of performances in a profession protected by its own group agreement, transferable within the same occupation, but not outside; moreover, though compensated during a sick or maternity leave, a contingent worker still jeopardizes his/her reputation by not being fully available to work and as a consequence, challenges his/her chances of re-employment as well.

There is therefore a need to strengthen these institutions, as well as universal standards and programs, if we wish to remedy the citizenship deficit that characterizes these workers (Legault and D'Amours 2011). They must also be adapted to take into account knowledge workers' growing mobility, both national and international, and the new needs for portable rights with respect to citizenship at work.

Finally, we saw that the strategies of skilled workers to protect themselves against the risks are mostly individual: diversification into several fields or subfields, meticulously

maintaining ability to work, employability and networks, adopting a healthy lifestyle. But what about collective action? In previous work (Legault and D'Amours 2011; D'Amours 2006), we have documented struggles of performing artists to gain a special collective labour relations scheme and (partial) public protection to cope with the risk of occupational injury and obsolescence of knowledge; fights of freelance journalists to get similar benefits and recognition of their copyright (lawsuits against major editors, following the example of the New York times freelancers) and the use of social web by video game designers to protest against the unlimited free overtime, resulting in filing three class actions.

But their collective action does not lead to formal or classical union action for at least two reasons. On the one hand, the Quebec legal framework still makes industry-based certification an exception to the North American dominant enterprise-based mode, reserved for performing artists, building trades and a few other ones. In the case of video game designers, even if they claimed their own model of industry-based certification, their international mobility would considerably limit their interest in negotiating benefits restricted to the national territory (Legault and Weststar 201*). On the other hand, these highly skilled workers put forward deeply distinct aspirations from those of the classical unionized membership. They do not want a universal and equal remuneration system based on seniority, education and skills, if it excludes any reference to the prestige and reputation. Unlike typical industrial citizen, performing artists, video game designers and freelance journalists are claiming a share of the added value generated by their intellectual contribution, in proportion to their market value. They are claiming to enhance their condition while keeping a multi-layered compensation system, some components being universal and minimal, other ones variable and meritocratic. This system is generating uneven benefits and claimed as such. Certainly, they have nothing to do with seniority, key principle of industrial

trade unionism in North America (Legault and D'Amours 2011).

Endnote

1. In fact, under the Copyright Act, a freelancer or self-employed worker sells only the first publication right and may negotiate additional payment for subsequent publications.

References

- Allen, J and Henry, N (1997) Ulrich Beck's "Risk Society" at work: labour and employment in the contract service industry, *Transactions of the Institute of British Geographers*, 22(2):180-196.
- Avrich-Johnson, K (2002) *Development and Other Challenges: A Producer's Handbook*. Ottawa, ON: Telefilm Canada. Available at: <http://www.telefilm.ca/document/en/01/17/producer-handbook.pdf>.
- Barley, SR and Kunda, G (2004) *Gurus, hired guns, and warm bodies: itinerant experts in a knowledge economy*, Princeton, Princeton University Press.
- Beck, U (1992) *Risk Society: Towards a New Modernity*. Translated by M Ritter. Newbury Park, CA: Sage. (Original work published 1986)
- Benner, C (2002) *Work in the New Economy. Flexible Labor Markets in Silicon Valley*, London, Blackwell Publishing.
- Burke, RJ and Fiksenbaum, L (2009) Work Motivations, Work Outcomes, and Health: Passion Versus Addiction, *Journal of Business Ethics*, 84:257–263.
- Campbell, I (2002) Snatching at the wind? Unpaid overtime and Trade Unions in Australia, *International Journal of Employment Studies*, 10(2):109-156.
- Castel, R (2003) *L'insécurité sociale. Qu'est-ce qu'être protégé?* Paris, Seuil.
- Chartrand-Beauregard, J and Gingras, S (2005) L'économie du savoir au Québec, ministère du Développement économique, de l'Innovation et de l'Exportation, Direction de l'analyse économique et des projets spéciaux, available at: http://www.mdeie.gouv.qc.ca/fileadmin/contenu/publications/etudes_statistiques/innovati on/economie_savoir.pdf
- Cooper, M (2008) The inequality of security: Winners and losers in the risk society, *Human relations*, 6(9):1229-1258.

- Corbeil, V (2011) *Diagnostic sectoriel de la main-d'œuvre du secteur des technologies de l'information et des communications 2011*, Montréal, TECHNOCompétences, Le Comité sectoriel de main-d'œuvre en technologies de l'information et des communications, available at: www.technocompetences.qc.ca
- D'Amours, M (2006). « La régulation des marchés du travail indépendant : le cas des journalistes indépendants de la presse écrite périodique », in PA Lapointe and G. Bellemare (dir). *Innovations sociales dans le travail et l'emploi : recherches empiriques et perspectives théoriques*. Québec, Presses de l'Université Laval, 209-234.
- D'Amours, M (2009) Travail précaire et gestion des risques: vers un nouveau modèle social?, *Lien social et Politiques*, 61:109-121.
- D'Amours, M and Crespo, S (2004) Les dimensions de l'hétérogénéité de la catégorie de travailleur indépendant sans employé: éléments pour une typologie. *Relations industrielles*, 59(3):459-489.
- Dean, M (1997) Sociology after society, in D. Owen (ed), *Sociology after postmodernism*, Thousand Oaks, Sage, 205-28.
- Devine, F, Britton, J, Mellor, R and Halfpenny, P (2000) Professional Work and professional Careers in Manchester's Business and Financial Sector, *Work, Employment and Society*, 14(3):521-540.
- Dosani, F (2001) When the true costs are added up, Vice president of Mercer consulting, intervention on Roger Seasons blog, available at: <http://www.galorath.com/wp/software-project-failure-costs-billions-better-estimation-planning-can-help.php>
- Dupuy, Y and Larré, F (1998) Entre salariat et travail indépendant, les formes hybrides de mobilisation du travail, *Travail et Emploi*, 77(4):1-14.
- Dyer-Witheford, N and DePeuter, G (2009) Empire@Play: Virtual Games and Global Capitalism, *CT theory multimedia journal*, <http://www.cttheory.net/articles.aspx?id=608>
- Ekinsmyth C. (1999) Professional Workers in a Risk Society, *Transactions of the Institute of British geographers*, 24(3):353-366.
- Entertainment Software Association of Canada (ESAC) (2011) Canada's Entertainment Software Industry in 2011, Montreal, [Secor](#) Consulting Inc.
- Esping-Andersen, G (1999) *The Social Foundations of Postindustrial Economies*. Oxford, Oxford University Press.
- Evers, A, Pijl, M and Ungerson, C (eds) (1994) *Payments for Care. A Comparative Overview*. Brookfield, Aldershot.

- Giddens, A (1991) *Modernity and Self-identity: Self and society in the late modern age*, Stanford, Stanford University Press.
- International Game Developers Association (IGDA) (2004) Quality of Life in the Game Industry. Challenges and Best Practices, <http://www.igda.org>
- Kalleberg, AL (2003) Flexible Firms and Labor Market Segmentation: Effects of Workplace Restructuring on Jobs and Workers, *Work and Occupations*, 30(2):154-175.
- Labadie, F and Rouet, F (2007) *Régulations du travail artistique*. Paris, Ministère de la culture et de la communication.
- Legault, MJ and D'Amours, M (2011) Représentation collective et citoyenneté au travail en contexte de projet. Les cas des artistes interprètes et des concepteurs de jeux vidéo, *Relations industrielles –Industrial Relations*, 66(4):655-677.
- Legault, MJ and Ouellet, K (2012) So into it they forget what time it is? Video game designers and unpaid overtime, in Dariusz Jemielniak and Abigail Marks, *Managing Dynamic Technology-Oriented Business: High-Tech Organizations and Workplaces*, Hershey, IGI Global, coll. Information Science Reference, 82-102.
- Legault, MJ and Weststar, J (201*). « Comment jouer la régulation dans l'industrie du jeu vidéo? », submitted for publication.
- McCluskey, M (2002) The rhetoric of risk and the redistribution of social insurance, in Baker, T and Simon, J (eds) *Embracing risk: The changing culture of insurance and responsibility*, Chicago, University of Chicago Press, 146-70.
- McManus, PA (2000) Market, State, and the Quality of New Self-Employment Jobs among Men in the US and Western Germany, *Social Forces*, 78(3):865-905.
- Meager, N (1994) Self-Employment Schemes for the Unemployed in the European Community: The Emergence of a New Institution, and Its Evaluation, in Schmid, G (ed). *Labor Market Institutions in Europe: A Socio Economic Analysis of Performance*. Labor and Human Resources Series, Armonk, NY, Sharpe, 183-242.
- Menger, PM (1997) *La profession de comédien. Formations, activités et carrières dans la démultiplication de soi*, Paris, La Documentation française.
- Morin, ML (2005) Le droit du travail face aux nouvelles formes d'organisation des entreprises, *Revue internationale du travail*, 5-30.
- Morin, ML (dir), Dupuy, Y, Larré, F and Sublet, S (1999) *Prestation de travail et activité de service*. Paris, La Documentation française/Ministère de l'Emploi et de la Solidarité, Coll. Cahier Travail et Emploi.

- Observatoire de la culture et des communications du Québec (OCCQ) (2010) Les professions de la culture et des communications au Québec en 2006. *Statistiques en bref*, no 66.
- O'Malley, P (2004) *Risk, uncertainty and government*, London, The GlassHouse Press.
- Paugam, S (2000). *Le salarié de la précarité*. Paris, PUF.
- Pereira, R (2009) The costs of unpaid overtime work in Canada: Dimensions and comparative analysis, Unpublished Integrated Studies Project, Master of Arts – Integrated Studies, Univ. of Athabasca.
- Quadagno, J (1999) Creating a capital investment welfare state: The new American exceptionalism, 1998 Presidential Address, *American Sociological Review*, 64(1):1-11.
- Quilgars, D and Abbott, D (2000) Working in the risk society: families perceptions of, and responses to, flexible labour markets and the restructuring of welfare. *Community, Work and Family*, 3(1):15-37.
- Quinlan, M, Mahew, C and Bohle, P (2001) The Global Expansion of Precarious Employment, Work Disorganization, and Consequences for Occupational Health: A Review of Recent Research, *International Journal of Health Services*, 31(2):335-414.
- Reimer, S (1998) Working in a Risk Society, *Transactions of the Institute of British Geographers. News Series*, 23(1):116-127.
- Standish (2009) *Standish chaos report. We are successful in repeating our failures*, available at: <http://blogs.msdn.com/b/dannawi/archive/2009/05/15/2009-standish-chaos-report-we-are-successful-in-the-failure.aspx>

Table 1
Breakdown of risk in three sectors

	Fordist organization	Game designers	Freelance journalists	Performing artists
Inherent business risk	Employer	Employer passes cost along value chain, that is, to studios, which pass it along to designers	– Publisher – Journalist proposing articles	– Producer – Artist proposing projects
Performance risk	Employer	Partly workers (two-tier compensation: fixed and variable; unpaid overtime and bonus based on game's success)	Largely workers (flat fee, must rework until satisfactory)	Partly workers (partly paid for performance, partly based on success of show)
Employment risk	Job security in internal labor markets	Job of indeterminate length, but limited by contracts awarded and project needs	Workers (IT)	Workers (IT)
Safety risk	Pooled (all employers)	Pooled (all employers) and income replacement insurance for 70% of respondents	Workers (IT)	Pooled in some cases, not others
Social risk	Pooled – Social security plans for employees – Employer contribution to company plans	Social security plans -Some employers contribute to group pension and income replacement insurance plans	Workers (IT) – Limited access to social security plans – No employer contribution	Shared – Limited access to social security plans – Producer contribution to managed by the artists' associations