

Precariousness and institutions from current arrangements of psychic care in France

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The current reduction of the means of psychic care provided by hospital, State, and public sector in France raises the question of the possibility of replacing them with other arrangements of care. Certain forms of care are expanding, which are both less costly and conducive to dehospitalization, more focused on everyday life, less specialized or less medical¹. Care systems are also created or re-established in small-scale initiatives, from a spatial or temporal point of view, using networks more flexible and plastic rather than hospitals or geographical sector-based organizations². It's believable that more spontaneous forms of care, more lively and more adapted to each individual case, could enable psychological care to be maintained, despite the gradual reduction of the former, more massive care systems, of which the big hospital were emblematic. And against what may seem to be a precariousness of care arrangements, it would be possible to rely on multiple efforts that would counterbalance this precariousness, even if these efforts are often themselves precarious, often forced to be quick and urgent, faced with the need of care for which resources are lacking. .

We would like to take a step back from this point of view. Without being able here to study for themselves the current problems encountered in the arrangements of psychic care in France, a more general analysis of the origins and form of the precariousness of many of our social activities, and as well an analysis of our possible reactions to this precariousness, may allow us to perceive differently the current situation of care institutions. Their difficulties and strengths aren't always easy to understand, but may be not special. The world of care may be neither stronger nor weaker than other sociopolitical sectors faced with precariousness. Why is the precariousness of care possible? What can be the sources of the more or less immediate constructions, that aim

¹The following indications can be given. The number of Mutual Aid Groups (GEM), which institutionalise patient groupings with a caring but non-medical and non-specialised focus, has for example increased by 20% in 2019-2020, to a total of 605 structures. [https://www.cnsa.fr/documentation/bilan_gem_2019-2020.pdf]. In 2017, of the two million patients treated in psychiatry in France, 1.6 were treated by outpatient facilities, see Stéphanie Dupays et Julien Emmanuelli, *Les centres médico-psychologiques de psychiatrie générale et leur place dans le parcours du patient*, IGAS, 2020 [<https://www.igas.gouv.fr/IMG/pdf/2019-090r.pdf>]. The number of full hospital beds is steadily decreasing, to about 53,000 places by the end of 2021, according to the Direction de la Recherche, des Etudes, des Evaluations et des Statistiques [<https://drees.solidarites-sante.gouv.fr/sites/default/files/2022-09/ER1242.pdf>]

²Examples of this include the *Château en santé* in Marseille [<http://www.chateau-en-sante.org/>] or *La Trame* en Seine Saint Denis [<https://latrame93.fr/>].

to replace or compensate the disappearance of many of the old psychological care mechanisms? It is by studying the social structure of precariousness - and not by studying the nature of care - that we will propose here some guidelines, expecting further developments.

From precariousness as an ancient legal institution to precariousness as insecurity

For this purpose, a precise definition of precariousness is first needed, which narrows its extension and distinguishes it from a number of related concepts, such as vulnerability, fragility, insecurity, weakness, etc.

This definitional effort may seem artificial, and in part it is, as these different words are used for each other. However, this terminological setting aims to do more than agree conventionally on what we're talking about, in order to be as clear as possible. Tightening the meaning of the term « precariousness » is indeed justified by its absence or relative novelty in a number of European languages. This is particularly remarkable as the term is increasingly used, especially in philosophy.³ « Precariousness » is commonly used in English and French (« *précarité* »), but, for example, rarely or not at all in German (where the term only appeared at the beginning of the 19th century as a result of a transfer from French) and in Slovak. These two languages rather signify it by the words « *Unsicherheit* » and « *neistota* », words that the French and English would translate by « *insécurité* » (or « *insecurity* »). Precariousness is a notion that has been particularized in some languages and not in others. This suggests that, beyond any arbitrary nominal definition, it can denote something really precise that later became more general and vague, and that today is perhaps re-particularized. Reviewing the particularity of precariousness in order to understand its disappearance and its comeback can therefore be enlightening. Why did the initial meaning of precariousness make it possible to speak of it as an extremely broad idea, effectively confusing it in English and French with the notion of insecurity, which was not the case in the past? What exactly did « precariousness » mean in the beginning?

³A famous example in English is Judith Butler, *Precarious Life: The Powers of Mourning and Violence*, Verso, 2004.. In French, we can mention Guillaume Le Blanc, *Vies ordinaires, vies précaires*, Paris, Seuil, 2007.

Precariousness is originated in Roman legislation, which is probably the reason why the term - and the idea - aren't initially found in the regions marked by the old Germanic right. The *precarium* corresponds to the possibility of exploiting a piece of land, being considered as the possessor but not as the owner, following an agreement given by the owner of the land, an agreement which is based solely on his goodwill and which does not include any temporal commitment⁴. Whoever exploits land on the legal basis of the *precarium* does it without consideration of what he gets from it, but without knowing until when he can do so. He must leave the place as soon as the owner asks him to. The *precarium* is thus quite similar to our current precarious leases.

The precarious possessor of a holding is subject to the goodwill of the owner. This explains why *precarium* gave the word « prayer » (and « prière » in French). And it's therefore surprising that such a type of relationship gave rise to a legal codification : the precarious person in Roman law seems to have no rights, other than those that are given to him and that can be taken back, which in our view corresponds to charity rather than to any positive right.

Roman history sheds light on this problem. The legal institution of the *precarium* would date back to conflicts between the patricians and the plebs. The possibility of the *precarium* would have been opened to the plebeians to allow them to subsist, and thus extinguish their discontent⁵. Moreover, in Roman law, the possessor, even if he was not the owner, was given certain protections. He kept his rights to possession as long as the owner had not formally established his rights to ownership. The Roman jurists considered that, in any case, to immediately drive someone off a piece of land he had had the right to occupy was a violent act, i.e., an act of war, contrary to the law as principle⁶.

These brief details make it possible to understand that the Roman law of the *precarium* is closely linked to concerns about survival and the pacification of

⁴Dominique Gaurier, « Le precarium romain, la tenancy at will du droit foncier anglais et le bail à domaine congéable des « usements » bretons. Similitudes ou fausses ressemblances? », *Le droit romain d'hier à aujourd'hui. Collationes et oblationes, Liber amicorum en l'honneur du professeur Gilbert Hanard*, Bruxelles, Presses de l'Université Saint-Louis, 2019 [<https://books.openedition.org/pusl/1004>].

⁵Ibid, paragraphs 10 ff.

⁶See especially Pierre Thévenin, « Situer la possession. Du droit romain de l'appartenance aux nouveaux modèles propriétaires. », *Clio@Thémis. Revue électronique d'histoire du droit*, Association Clio@Thémis, 2018 [<https://halshs.archives-ouvertes.fr/halshs-02309701>].

social relations, and thus to see its arbitrariness as well, which is paradoxical for a law. By allowing the exploitation of certain lands and delaying immediate evictions, in fact, the *precarium* avoided the exercise or emergence of violence. From this point of view, the institution in law of a *de facto* octroi was undoubtedly established to pursue pacifying effects. The codification in law of the *precarium* not only guaranteed that the cessation of the loan of a piece of land would have its brutality systematically mitigated. It also, and more importantly, guaranteed that possibilities for the exploitation of other pieces of land, following the same modalities, would probably exist elsewhere, which could also pacify the precarious people by giving them hope.

According to its initial meaning in Roman law, we can therefore say that « precariousness » was a social and institutionalized form of survival, codified in law in order to pacify certain relations of social domination without calling them into question, where the effectiveness of the law, finally, didn't lie in the duties it imposed, but in the possibilities in which it allowed one to hope (in this sense, one had all the less to fear the effects of precariousness that it was extended).

It's useful to start from these few elements in order to understand why such a precise legal and sociopolitical notion has been subject to a double movement, since the 19th century or thereabouts, but especially since the last few decades. The first movement has gone in the direction of an almost unlimited extension, which has made precariousness a quasi universal condition of life; the second has gone in the sense of maintaining the specificity of precariousness, by not confusing it with vulnerability, insecurity or fragility, which is why the term "precariousness" remains in use without disappearing.

Precariousness as a form of sociopolitical exposure to arbitrariness

A characteristic of precariousness has undoubtedly been maintained, which is essential to its particularity. It differentiates beings on a scale of degrees (one can be more or less precarious) but also by a difference of nature (one can be precarious or not). The precariousness is thus not comparable to the vulnerability, because the differentiations it allows to make don't imply that

it's a universal condition of life⁷.

If precariousness divides beings, it's not, however, by attributing to them an inherent quality. It's not in the nature of something to be precarious or not to be precarious. Precariousness has its origin in the type of relations which are established between a being and others, relations that can be precarious and produce, in the same measure as their precariousness of relation, the precariousness of beings. In this way, there remains in the contemporary idea of precariousness the uncertainty and relational arbitrariness that was the one of the Roman *precarium*. In no case it should be confused with fragility, which corresponds to a quality proper to things that can be broken.

This relational origin of precariousness is an absolutely key point. It can be considered to have driven the paradoxical developments of the notion, on a linguistic as well as on a conceptual level.

On the one hand, the precariousness is based on the idea that certain particular relations, with a well-defined and identifiable action, are at the source of the precariousness of a being. One is precarious because of some specific difficulty - sickness, poverty, unemployment, etc. But, on the other hand, the constantly distinguishable causes of precariousness produce effects whose extension is potentially unlimited, and which can also be extreme. Poverty as a cause of precariousness can lead to loneliness, stress, illness, to the point of threatening life, in the most strictly biological sense of the term.

The first aspect of precariousness refers to something specific : a weakening with determinable causes, against which certain social interventions can precisely struggle. Precariousness is specified by social relations, which play both the role of trigger and the role of means to stop it.

Through the second aspect, precariousness, considered in its effects, refers to cascading issues, ultimately vital, which are both multiple and inseparable. Precariousness can thus be assimilated to a danger or insecurity. This last term perfectly signifies the global and environmental indefiniteness of what constitutes precariousness, and its relationship with life and death. This explains the use of the word and the idea of insecurity to talk about precariousness⁸, and the increasing extension given to this notion.

⁷Marie Garreau, *Politiques de la vulnérabilité*, Paris, CNRS Editions, 2018.

⁸One example is Robert Castel, *L'Insécurité sociale. Qu'est-ce qu'être protégé?*, Paris, Seuil, 2003.

This double terminological trajectory is founded on a major conceptual problem. How can the vital and the social be combined in analyses of precariousness, in order to understand its particularities, and to strictly pose the problems that it evokes or provokes today? We can think that, in seeking to do so, we should have to subordinate the vital to the social, and not try to consider the two on an equal level of interaction.

The clue, or rather the reason of this, is there's not and cannot be a generic experience of precariousness. Although precariousness is a common condition, and increasingly common condition, there's no standard or regular experience of it, apart from a political knowledge of its causes, shared by all precarious people.

Today, as in ancient Rome, precariousness can be described as a succession of continuities and interruptions of these continuities. But this isn't enough to shape it, either in time or in space. Precariousness can be made up of long periods of stability or, on the contrary, of brief moments of continuity that are often cut off; ruptures (or nowadays renewals) can be more or less predictable; there can be easiness or difficulties in finding a stable situation, which can be more or less strongly different from the previous one⁹. In a nutshell, precariousness has no rhythmic or situational form. The only common element to all precariousness, to its experience and nature, is the permanent exposure to the arbitrariness and goodwill of others, and uncertainty is the only identifiable psychological, broad expression of this.

This exposure to arbitrariness can itself be more or less forgotten, or obsessive. The fact remains that any experience of precariousness includes it, which is why one may believe that the only possible definition of precariousness is of a political nature.

What is to say, then, about the vital and sometimes deadly aspects of precariousness? Subordinating the vital to the political in analyses of precariousness doesn't mean erasing the vital, quite the opposite. It helps to point out the essential role that vitality plays in the political institution of precariousness. It highlights that life as a force, the force of life, can in no way be an efficient

⁹On the formless splintering induced by precarity and a way of shaping it despite everything for effectively existential reasons, paying for it with health, see Joseph Ponthus, *À la ligne, feuilletts d'usine*, Paris, La Table Ronde, 2018, originally written in Facebook posts.

mean to fight against precariousness : this force, on the contrary, is an essential source of its maintaining.

Vitality as the source of the institution of precariousness

The vital strength can indeed easily represent what allows the precarious to overcome cuts and ruptures. This is a trap, rather than a solution. Vitality is thus a condition of possibility of the institution of precariousness, and one of its essential justifications, rather than a mean of efficient struggle against it. It acts as an indispensable factor for putting into continuity the separate moments of continuity, the stops and breaks that define precariousness. Ultimately, it's biological continuity that ensures the concrete, institutional, political and social continuation of precariousness, of which the « great precarious », the tramps, are a tragic example ¹⁰, but of which Roman law also reminds us the calculated systematization.

In the *precarium* as in precariousness, sociopolitical institutions rely on people's capacities for survival, so that certain forms of sociopolitical arbitrariness and domination are bearable in spite of everything, by the vital sustenance they allow the precarious. From this point of view, it's necessary to underline the equivocalness of the vitality in precariousness as institution. Life is what stands *in* precariousness, and at the same time *against* precariousness. It's life as survival, the social and political sets of life as survival, the power of resistance of people as a paradoxical source of the reduction of their power to act, that precariousness reveals.

More broadly, and from the perspective of conceptual structures, it doesn't seem possible to correctly examine the articulation of the social institutions (in which precarious existences are inscribed) with the vitality (of human beings), if we start from this latter. The risk is to hypertrophy the forces of life, missing in particular precariousness as a specific social form, of extreme importance though, since the social form of precariousness reveals in depth the determinant role of sociopolitical institutions for human existences.

Indeed, if we attribute to vital normativity in the analyses of precariousness

¹⁰For a development of such perspectives, see Patrick Declerck, *Les naufragés : avec les clochards de Paris*, Paris, Plon, Coll. Terre Humaine, 2005.

a central role of resistance, it's difficult to see then how to clearly set limits to the power of this normativity. Either it's considered as able of establishing continuities through efforts that are themselves continuous, or considered as able of making ruptures so that ruptures are themselves passed through¹¹, the primary power given to normativity cannot be invalidated *a priori* by any social norm. Symmetrically, and although their action in theory may be admitted, the social and institutional supports of life then trend to be reduced to a presence, without any particular content. Even if their necessity is affirmed in principle, they are indeed always susceptible to be transformed, or their absence compensated by the precedence given to the vital normativity..

First of all, it follows from this that vitalist analyses of precariousness, whether critical or not, can only be based on the individualized experiences of the precarious and on the individualized relations to which these experiences can give rise. Certainly, by their necessary infinite diversity, these experiences are useful, but they're also insufficient to think the systematic politics of precariousness as well as their possible reforms or abolition. The passage from the individual to the collective, from the multiple to the social, is elusive. Then, with this vitalist way, the problems raised by the articulation of the vital and the social in precariousness can only be formulated in terms of degrees, and characterized by the degrees of difficulty that vital normativity is likely to encounter with the indefinitely variable form of increasing worries, dangers or risks, up to certain extremes. Precariousness, as precariousness of the living caught up in social and political functioning, is in this way inseparably trivialized (because it potentially concerns all living beings, who, just as potentially, can always get out of it). But it's also dramatized (in order to fully present the conflicting forces that result in victories or defeats). We also lack, then, the means to distinguish between very dissimilar precariousness (precarious workers, migrants, tramps...) which are very different from a political, social and sanitary point of view ¹².¹³. Finally, the free action of vitalism in precariousness seems fatally dissolve this one in the notion of

¹¹On this point, with a preference given to continuity, see Michele Cammelli, voir Michele Cammelli, *Canguilhem philosophe, le sujet et l'erreur*, Paris, PUF, 2022.

¹²The conceptualization of precariousness proposed by Guillaume Le Blanc in *Vies Ordinaires, vies précaires*, op. cit. is exemplary of the critical perspectives that vitalism has on precariousness and of their difficulty

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insecurity (vital and social), which is broader, more vague, more worrying politically but socially less brutal than precariousness.

In other words, if we don't proceed from a precise definition of the sociopolitical causes of precariousness, it seems that we can't avoid emptying them of all substance, insofar as the vital foundations of precariousness can't be limited in their power. But why starting from precariousness as an institutional sociopolitical form, does make it possible to analyze it better, and to envisage distinct solutions to different difficulties that have their common root in the institutionalized exposure to arbitrariness? And does it mean we must ignore the notion of life in order to understand precariousness ?

Sociopolitical analysis of precariousness and care institutions

Generally speaking, focusing on an analysis of precariousness from its institutional, political and social form makes it possible to better study the different continuities and discontinuities that can be combined in it, and the constructed and modifiable part of these combinations (since life no longer immediately operates as an explanatory principle, as resistance or spontaneity).

Three issues in particular can be raised, which vitalist perspectives on precariousness leave in the shade. Each time, they involve the complexity of the vital, and oblige us to consider what it means to care and to arrange care. These problems concern the justifications for precariousness (and not only its possibility or its bearable character); the precariousness of institutions themselves (and not only of individuals or groups); and finally, the human activities that precariousness prevents (without the possibility of compensating for this blockage).

Some professional activities in France are systematically precarious, with periods of activity interrupted at variable intervals. This is the case of intermittent workers in the performing arts, and at least two conclusions can be drawn from their status. First, because intermittence is seen as essential to the performing arts, there's a continuity in the background of the precarious contracts in these professions. An indemnity, actually a deferred wage¹⁴, is

¹⁴On the idea of deferred wages, see Robert Castel, *Les métamorphoses de la question sociale*, Paris, Gallimard, Coll. Folio, 1999. On the status and situations of intermittent

paid to them during their periods of inactivity. When precariousness doesn't correspond to an organization of social acceptance of survival, thus it can be supported by forms of social and financial stability. The second point of reflection, which is more fragile but is also important, is that the precariousness of the intermittent workers in the performing arts can be explained, at least in part, by the spatial dispersion, the momentary nature of the performances and their preparation, and by the idea that artistic creation can only be produced on the basis of a multiplicity of places and times, which is the only way to prevent the uniformity or control of the arts. Thus, we can see that precariousness could be justified insofar as certain social activities would require attention to the singular and the multiple without any standardization¹⁵. It can sometimes be the case in care, to ensure greater attention to people, diseases and therapeutic activities, as life is indeed always multiple and creative even if it can also, at the same time, sometimes be weak and powerless. Such care, however, constantly adapted, reworked or rewoven, can only exist if continuous social support is given to the carers.

Secondly, if precariousness is a social form, then institutions themselves can be precarious, not just individuals caught up in precarious social institutions. This precarization of institutions is increasingly common today. It's particularly caused by project-based funding, where a distinction is nowadays made between initial funding and continuation or development funding, without the initial funding guaranteeing the others. What appears here is not only an extension of precariousness. It's more deeply a precariousness of the users which is added to the one of the workers. The continuity of institutions may indeed go hand in hand with the precariousness of those who work in them. Therefore, the new precariousness of institutions doesn't change so much the condition of the workers. It changes the one of those who use these institutions. In the field of mental health care, it's the patients who are put in a more precarious position by the new project-based institutions, although these patients are already weakened. There is therefore no reason to believe that the precariousness of institutions can contribute to anything in the field of therapeutic treatment, as the dynamism of carers in constantly recreating

workers, see the website of the struggles of intermittent and precarious workers in Île de France, [<https://www.cip-idf.org/>]

¹⁵To distinguish it from the precariat, the status of intermittent workers could be compared to that of missionaries, with whom it shares the fragmentation of time and space, the need to adapt to new situations, but also the need for specialist knowledge..

new institutions can only partially compensate for discontinued care.

From this point of view and at last, we can see that care and precariousness can't be indefinitely composed with each other, however spontaneous and simple the care relationships may be. On the one hand, the spontaneity and simplicity have their limits, science and technique are also needed in psychic care. On the other hand, care may have to rely on an asylum function, in the original sense of the term: of unconditional, certain and as far as possible unailing protection¹⁶. No precariousness has a role to play here. on this issue, it's necessary to make a clear distinction between the combination of continuities and discontinuities within institutional organizations - which can have therapeutic aims¹⁷ - and the discontinuity of the institutions themselves - which undermines their function of welcoming and which cannot be justified from a health care perspective.

To say that precariousness isn't a dimension of life, and even less an ontological characteristic, isn't to deny its reality, its possibility, and even sometimes its social utility. In the field of care, the fragility of sick lives and the essential intermittence of care interventions should oblige us to privilege the continuity of institutional forms, whatever can be their possible creative variations and the power of spontaneity.

Stéphane Zygart

¹⁶On the concept of asylum, see Ferdinand Deligny, *Oeuvres*, Paris, Editions L'Arachnéen, 2007.

¹⁷See Jean Oury, *Psychiatrie et psychothérapie institutionnelle*, Payot, Paris, 1976.