

# Non-Regular Employment in the United States: a Profile

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## Abstract

Beginning in the mid 1970s, key changes led countries, organizations, and workers more flexible arrangements, shifting away from standard employment arrangements to non-regular arrangements. This paper provides a review of key non-regular employment arrangements in the United States, including contingent, part-time, temporary staffing agency, short-term and on-call, independent contracting, day labor, and informal employment. I also provide a discussion of factors that led to these employment arrangements, and possible scenarios for shifting to permanent employment. I close with a discussion of inequality in non-regular employment arrangements. The literature provides ample evidence of a burgeoning non-regular employment regime in the United States. Non-regular employment arrangements are variegated and represent a growing share of all employment in the U.S. Various factors, including industrial and global political economy policies help us understand this growth. The overwhelming majority of workers who participate in non-regular employment differ in treatment, with many earning poor wages, no benefits, and little employment security. Future research on social and policy issues is key for state and private intervention.

## Introduction

Research on non-regular employment in the United States is colored with a multiplicity of terms including, temporary, part-time, contingent, flexible, precarious, short-term, informal, day labor, and on-call. These terms are all used in an attempt to understand the multifaceted nature of non-regular employment arrangements taking hold of a rapidly changing economy and workforce demand. It is difficult to concretely define work arrangements that continue to shift and be reconfigured as we speak, but we can investigate these configurations by beginning to understand non-regular employment as any non-normative work that does not involve a full-time wage and/or salary, (Polivka 1996) is structured as temporary, and/or is perceived by the employee as unlikely to continue despite work performance or the condition of the economy (Edwards & Grobar 2002). According to Kalleberg (2000), “[c]hanges beginning in the mid-1970s created conditions that led countries, organizations, and workers to search for greater flexibility in employment,” ultimately encouraging a shift away from “standard” employment arrangements in which it was generally expected that work was done full-time, would continue indefinitely, and was performed at the employer’s place of business under the employer’s direction” (341-2).

Firms and employers in the United States, both in the private and public sectors, have attempted to increase their flexibility and reduce costs by making greater use of part-time,

temporary, and other non-regular workers. Some workers may prefer this type of employment (e.g., students or mothers), particularly those that favor greater autonomy and flexibility. However, faced with a difficult labor market, most non-regular workers take these jobs involuntarily or work at a second job to pay the bills. To be clear, the advantages of non-regular work is offset by no job security, lower pay, no fringe benefits, and increased exposure to occupational hazards. As a result, employment in non-regular employment is unequal and contributes to labor market inequalities between those employed in stable, regular work and those in non-regular work, which often include immigrants, racial minorities, and women.

In the United States, several related processes help explain the contemporary growth of non-regular employment, including economic restructuring and the advent or growth of flexible labor, often referenced as contingent work. In addition, immigration during the past three decades, the largest wave in the history of the United States (INS 1999), has also contributed to the growth of this and other forms of non-regular work. Globalization and the restructuring of regional economies, coupled with massive immigration, have resulted in unique labor markets where demand for part-time, low-skill, and flexible work such as day labor proliferates.

Economic restructuring profoundly affects whom works, how one works, and how work pays. How the U.S. economy has changed in the recent past and its uneven impact is well documented (Bluestone and Harrison, 1986; Harrison and Bluestone, 1988; Loveman and Tilly, 1988; Noyelle, 1987; Osterman, 1988). Economic restructuring in the United States can be summarily described by two primary changes. The first concerns the industrial change over time, usually represented by growth or decline. The second is related to the first and tells about the new or reformulated jobs (i.e., part-time, temporary staffing agencies, consultants, home office workers and day laborers) that have evolved as a result of industrial restructuring and change. These two changes, with a few minor variants, provide us with a framework for understanding labor market changes, particularly those related to non-regular employment in the United States.

The industry composition of employment in urban areas has shifted from a predominantly manufacturing base to industries that include services, finance, trade, and non-durable manufacturing. Partly driving this restructuring is the advent of “mega” or global cities such as Los Angeles, New York, or Tokyo which have expanded their tourist and business (e.g., finance, banking, insurance) trade. In large part, this trade leads to the creation of a tiered economy that includes services in the hotel, entertainment, cleaning, and food industries. Similarly, a number of smaller cities such as San Jose and Boston have grown tremendously in their high technology industrial base, producing almost equally tangential effects on the service based industries that keep high technology workers satisfied and low skill workers, who provide household and other types of services, employed.

This shift has produced an hourglass or bifurcated job stratum. Jobs at the high end are characteristically better paying, more stable, exhibit strong internal mechanisms for promotion, and provide workers with customary benefits such as health, legal, and retirement. At the other end, jobs are usually unstable, prone to frequent turnover, low pay, and rarely provide benefits (unless unionized). It is under this broad historical and contemporary context that we begin to understand the growth and development of non-regular employment.

In the sections that follow, I first provide a typology and discussion of definitions of non-regular employment arrangements beginning with the widely accepted category of contingent work which encompasses much of non-regular employment. After a discussion of contingent

employment, I (1) review definitions and descriptions of various non-regular employment arrangements including part-time work, temporary staffing agencies, short-term or on-call workers, independent contractors, informal work, and day laborers. I then attempt to answer and provide context on several key issues including, (2) reasons for increases in non-regular employment, (3) the willingness of employees to participate in non-regular employment, (4) scenarios for shifting to permanent employment, (5) issues of equal treatment, (6) employment stability, (7) the current economic crisis and non-regular work, and (8) social and policy issues related to non-regular employment. This paper is based on an extensive literature review<sup>i</sup> and a series of in-depth interviews of key personnel in three different firms representing the service (hotel), retail (department store), and manufacturing (electrical machinery) industries.<sup>ii</sup>

## **1. Non-Regular Employment Arrangements**

### **1.1 Contingent employment**

The employment arrangements discussed above are temporally systematic in their organization. Rather than characterized by its relationship to temporality, contingent employment is best characterized by conditionality based on demand and an arrangement in which “lack of attachment between worker and employer” is evident (Polivka & Nardone 1989). Since many alternative work arrangements involve conditional demand and signify outsourcing, jobs acquired through places like temporary staffing agencies qualify as both alternative and contingent work arrangements. In 1989, the Bureau of Labor Statistics established a definition of contingent employment as “any job in which an individual does not have an explicit or implicit contract for long-term employment” (in Polivka 1996). According to Kalleberg (2009) the shift toward contingent employment among a growing number of American establishments, indicates that a phenomenon of outsourcing is transcending industries and contributing to a sense of precarity, that is to say workers’ perceived job insecurity, in the labor market. The phenomenon of contracting-out is seen in the food and janitorial services domestically as well as internationally: “the use of mercenary soldiers, such as employees of Blackwater, in Iraq,” points to the growing institutionalization of contingent employment and increases precarity “because it makes us all potentially replaceable” (Ibid).

Contingent employment arrangements are described by key processes whereby the standard core employment relationship in industrial mass-production enterprises has changed from predominantly secure (full-time employment for an indefinite period, with a single employer) to insecure (self-employed, part-time, temporary, subcontract) work. Early work on this subject by Portes and Benton (1984) and Portes and Sassen-Koob (1987) show that during the post World War II period until 1980, Latin America experienced a rapid and sustained process of industrial development that also included informal and self-employed work. Tilly (1996:13) also clearly documents the growth of part-timers in the workforce (please see earlier section above). Finally, employers, in their attempts to reduce costs, have increased their use of employment intermediaries such as temporary help services and contract companies and are relying more on alternative staffing arrangement such as on-call workers and independent contractors (Polivka 1996; Henson 1996).

In response to these changes, perceived<sup>iii</sup> or real, in full-time, single employer, long-term jobs and simultaneous increases in “disposable” or “hire on-demand” temporary workers, a new category of workers emerged known as contingent workers. First coined in 1985<sup>iv</sup> to describe a management technique of employing workers only when there was an immediate

and direct demand for their services such as a temporary layoff or spurt in demand for a particular product. Since its initial use, the term has been applied to a wide range of employment practices including part-time work, temporary help service employment, employee leasing, self-employment, contracting out, employment in the business services sector, and home-based work. It is also often used to describe any non-traditional work arrangement from the norm of a full-time wage and salary job such as day labor or entrepreneurial work in the informal economy.

To make sense of this new employment category and to provide specificity on its possible size and impact, the U.S. Bureau of Labor Statistics (BLS) developed the following conceptual definition of contingent work in 1989:

*Contingent work is any job in which an individual does not have an explicit or implicit contract for long-term employment or one in which the minimum hours worked can vary in a nonsystematic manner.* (Polivka and Nardone 1989; Polivka 1996)

Its focus is undeniably on job security and unpredictability in hours worked. According to the BLS, any work arrangement, which does not contain an explicit or implicit commitment between the employee and employer for long-term employment, should be considered contingent. The BLS also added another category “workers in alternative work arrangements” under the broad rubric of contingency. Workers in alternative work arrangements are independent contractors, on-call workers, temporary help agency workers, workers provided by contract firms and day laborers. In contrast, these workers may or may not have an implicit or explicit contract for ongoing employment. Thus, workers with contingent or alternative arrangements fall into two separate, but not necessarily mutually exclusive categories.

To better assess the status and count of the contingent work force in the United States, the Bureau of Labor Statistics operationalized their definitions and collected data on this population from the 1995, 1997, and 1999 supplement of the Current Population Survey. As a result, the BLS has the most extensive and detailed data on this work force bringing to light, for the first time, important differences among different contingent work arrangements, characteristics of workers, and differences between contingent work and traditional work arrangements.

Cohany (1998) and Hipple (1998) find significant variations among different types of contingent workers and between workers in traditional work arrangements. For example, independent contractors and workers provided by contract firms seem to be at the top of the contingent work hierarchy, concentrated in services and construction. Employers seeking higher-level executive, managerial, and professional occupations are likely to favor independent contractors. Independent contractors and workers provided by contract firms report higher median weekly earnings and registered the lowest percent of workers below the poverty line. In contrast, on-call workers and agency temporaries were concentrated in services, construction, and manufacturing, showed the lowest median weekly earnings, and registered the largest percent of workers below the poverty threshold. Perhaps the most consistent characteristic that contingent workers share is that they are more likely to have low incomes than similar workers in traditional full-time work arrangements.

Other researchers have also joined the contingent worker definition debate. Spalter-Roth and Hartmann (1998) define contingent work as having three dimensions: 1) work schedules that are either temporary or unpredictable in terms of hours and weeks of work; 2) wages that tend to be low (overall and in comparison to full-time permanent employees) and benefits are either not provided or inadequate; and 3) relationships between workers and employers that

are conditional and without permanence. Theodore and Mehta (1999) include two other forms of nonstandard or contingent employment arrangements: 1) regular part-time workers who are hired onto a company's payroll and who work less than full-time hours each week and who are not short-term hires. Although some part-time worker should not be considered to be contingently employed because they permanently hold part-time jobs, other part-time workers are conditionally employed and should be included in definitions of contingent work; and 2) short-term hires, workers who are hired and paid directly by a business for a limited period of time, and who work at that business' work site and who's work is directed by that business. Table 1 below provides a description of contingent work possibilities based on the definitions presented in this section. It also provides figures on the possible size of the contingent labor force in the United States depending on the definition.

**Table 1: Non-regular and Contingent Employment in the United States**

<b>Employment Type</b>	<b>Description of Work</b>	<b>Percent of Total Workforce 1999<sup>A</sup></b>	<b>Percent of Total Workforce 2005<sup>B</sup></b>
<b>BLS Categories</b>			
Agency Temporary Workers (Temps)	Individuals who work for temporary employment agencies and are assigned by the agencies to work for other companies.	0.9	0.9
On-Call Workers and Day Laborers	Individuals who are called to work only on an as-needed basis or who get work by waiting at a place where employers pick them up to work for the day. (Substitute teachers and construction workers)	1.7	2.0
Contract Company Workers	Individuals who work for companies that provide services to other firms under contract. (security, landscaping, or staffing services).	0.6	0.6
Independent Contractors	Individuals who obtain customers on their own, provide a product or services and who have other employees working for them. (Maids, realtors, child-care providers, and management consultants)	6.3	7.4

(Continued on next page.)

<b>Other Categories</b>			
Direct Hire Temps	Temporary workers hired directly by companies to work for a specified period of time. (Seasonal workers, workers hired for special projects).	2.5	2.1
Self-Employed Workers and Entrepreneurs	Self-employed workers who are not independent contractors. (Doctors and individuals who own restaurants and shops).	4.8	4.4
Standard Part-Time Workers	Individuals who regularly work fewer than 35 hours a week for a particular employer and are wage and salary workers.	13.2	13.2
Conditional Part-time Workers	Individuals who hold part-time jobs conditionally and who are not short-term hires.	Data not Available	Data not Available
Short-term Workers	Individuals who are hired and paid directly by a business for a limited period of time, and who work at that business' work site and who's work is directed by that business.	Data not Available	Data not Available
Leased Workers	Individuals who work for leasing companies (some of which are called "professional employer organizations") that usually handle payroll, employee benefit programs, and other human resource functions for the companies to which they lease workers.	Data not Available	Data not Available
<b>Other Employment Types</b>			
Spalter-Roth & Hartmann (1998)	<ol style="list-style-type: none"> <li>1) Work schedules that are either temporary or unpredictable in terms of hours and weeks of work;</li> <li>2) Wages that tend to be low (overall and in comparison to full-time permanent employees) and benefits are either not provided or inadequate; and</li> <li>3) Relationships between workers and employers that are conditional and without permanence.</li> </ol>	Data not Available	Data not Available
Theodore and Mehta (1999)	<ol style="list-style-type: none"> <li>1) <i>Regular part-time workers</i> who are hired onto a company's payroll and who work less than full-time hours each week and who are not short-term hires. Although some part-time worker should not be considered to be contingently employed because they permanently hold part-time jobs, other part-time workers are conditionally employed and should be included in definitions of contingent work.</li> <li>2) <i>Short-term hires</i>, workers who are hired and paid directly by a business for a limited period of time, and who work at that business' work site and who's work is directed by that business.</li> </ol>	Data not Available	Data not Available

<sup>A</sup>Source: GAO analysis of data from the BLS February 1999 Contingent Work Supplement (2000).

<sup>B</sup>Source: GAO analysis of data from the BLS February 2005 Contingent Work Supplement (2006).

As a result of different definitions, varied counts regarding the size and impact of this workforce have emerged. At one extreme, temporary jobs comprise approximately 25 percent of new jobs created between 1984 and the present (Cappelli, et al. 1997) while the number of temporary help agencies has grown phenomenally, exceeding 500 percent since 1982 (Hirschman, 1998). Belous (1989), estimates that contingent workers account for between 25 and 30 percent of the labor force. On the other hand Cohany (1998) indicate that only 2.2 percent to 4.9 percent of workers are employed under contingent staffing arrangement. Using the "alternative work arrangement" definition by the BLS, Polivka (1996) estimates that 9.9 percent of total employment falls under contingent work arrangements. These two divides would have us believe that contingent work is either becoming a central component of U.S.

labor markets, challenging traditional staffing arrangements or that contingent work is only modestly impacting the U.S. labor market.

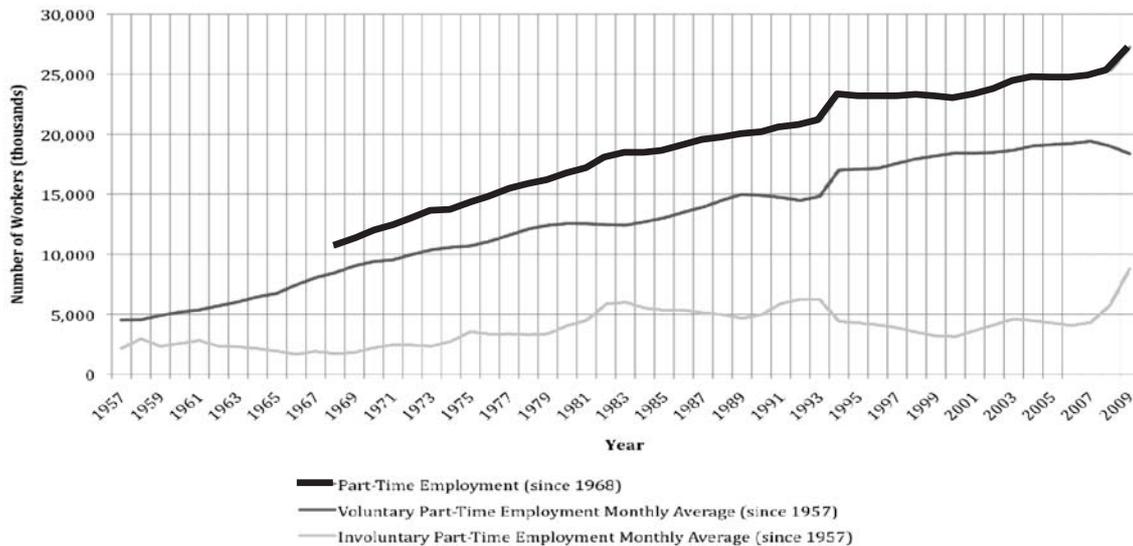
Employers use contingent workers for a variety of reasons. Houseman (1996) finds that employers hire contingent workers to accommodate workload fluctuations, fill temporary absences, meet employees' requests for part-time hours, screen workers for permanent positions, and save on wage and benefit costs, among other reasons. Employers also likely use contingent workers for other reasons, such as to avoid paying benefits, reduce workers' compensation costs, and prevent workers' attempts to unionize, or allow them to lay off workers more easily. Finally, the ease and flexibility in hiring contingent workers makes this supply of workers especially attractive. Cumbersome personnel procedures are circumvented through temporary agencies or by simply driving by a temporary hiring site and securing labor.

Workers also participate in contingent work for a variety of reasons. Some workers prefer a flexible schedule due to school, family, or other obligations and are willing to forego steady work at a higher wage for the flexibility afforded in this line of work. Others partake in this market for additional income, supplementing their full or part time employment elsewhere. Still others are unable to find a steady job and hope that work in this market will lead to permanent employment.

## **1.2 Part-time employment**

In the United States, part-time work was once a rite of passage for many to full-time and steady employment but over the past several decades, its permanence and growth has made it increasingly difficult to transition out of it. Of the one-quarter of the U.S. workforce usually identified as contingent, part-time workers account for 80 percent or four fifths of this total. In addition, 40 percent of temporary workers work part-time hours (Plewes, 1988). Part-time work is by far the most common form of non-regular employment. Part-time work has a long history in the United States. For example, in the mid 1950s, 13 percent of the workforce worked part-time compared to 18 percent in the early 1990s. In the second half of the 20<sup>th</sup> Century, part-time workers have grown gradually, occupying an increasing share of the total workforce. In the short run, the incidence of part-time employment has climbed during economic recessions and dipped during expansions. Over the long run, increases have exceeded decreases, so that, on the average, the fraction of the work force employed part-time has trended upward at roughly .19 percentage points per year since the 1950s. The long-run increase in the rate of part-time employment was most rapid during the 1970s (Tilly 1991).

The overwhelming use of data on part-time employment is drawn from household data that use a person-based definition of part-time employment: the U.S. Bureau of Labor Statistics (BLS) definition of persons working "part-time schedules" as those who usually work less than 35 hours a week, except for the usually full-time workers who are working part-time for noneconomic reasons (including a legal or religious holiday, vacation, temporary illness, bad weather, industrial dispute, or a job for which regular full-time hours are less than 35 hours per week). Using data from the U.S. Bureau of Labor Statistics (Department of Labor), the Figure below charts for the United States part-time work, including involuntary and voluntary employment since 1957, when data on this began to be collected. Clearly, part-time work in the United States has steadily increased along with the number of voluntary and involuntary part-time workers.

**Figure 1 U.S. Part - Time Employment: Voluntary and Involuntary, 1957 - Present**

Until 1994, the BLS classified part-timers as voluntary or involuntary according to how they answer the question, “Why are you working less than 35 hours a week?” Persons reporting the reason as slack work, material shortages or repairs, a job that started or ended during the survey week, or inability to find full-time work were considered involuntary, or “part-time for economic reasons”; all others were considered voluntary. In 1994, the BLS also began to count as voluntary anyone who said he or she did not want, or was not available for full-time work (these questions were not asked in earlier years). The BLS counts as involuntary part-time workers who would prefer a full-time job in their present circumstances. For example, a woman who can only work part-time because she is unable to find day care is a voluntary part-timer by this criterion.

In the United States, many Americans have intimate experiences with part-time employment, having possibly taken on part-time mall jobs in high school or perhaps having held a part-time position while taking on a full-time course load in college. Indeed, until about 1970 the part-time growth trend was driven by expanding voluntary part-time employment, as young women (mothers) and baby-boom teenagers, desiring part-time hours, streamed into the workforce. Since then, the rate of voluntary part-time employment has stagnated, and the growing rate of involuntary part-time work has propelled the upward trend (Tilly, 1996). There is no doubt that part-time employment holds benefits and/or setbacks depending on the type of job, the extent of flexibility, and the employment benefits offered through any given company.

Part-time employment does not lend itself to a narrow definition as even the word “part-time” differs among nations. For example, 35 hours of employment or less qualify as part-time in the United States while the United Kingdom uses a 30-hour standard (Kalleberg 2000). After the 1970s, part-time employment again expanded in the two decades that followed but reasons for the expansion shifted from mainly meeting the needs and demands of a workforce to meeting employer preferences for lower costs and flexible staffing (Kalleberg 2000). It is widely known that full-benefits, higher pay, and more permanent positions are reserved for full-time employees, yet by decreasing the number of full-time workers, companies are able to increase their part-time workforce, lower wages, reduce benefits, and for many companies, eliminate medical coverage for employees and expand levels of employment flexibility (Carre

& Tilly 1998). Part-time jobs tend to increase in times of recession, a logical move for companies trying to stay afloat, with more and more people vying for these positions “involuntarily,” meaning employees very much prefer the security of full-time employment, but settle for some form of income generating arrangement short of ideal. Tilly (1996) describes involuntary part-time employment as only half a job in the sense that it is only half the job that the employee wants. And about one-quarter of the part-time workers in the United States are working part-time involuntarily – most of them because they are unable to find a full-time job. At the same time, millions of full-time workers would prefer part-time hours but are unable to obtain them, while millions of others remain jobless as they search for a part-time job.

Despite the drop in employee benefits, part-time employment does not intrinsically qualify as a contingent work arrangement because much of part-time work is stable and regular. Instability is not always present in this arrangement, as is the case with contingency, evident in the fact that “in January 1991, half of all part-time workers aged 25 and older had been with their employer at least 3.3 years and, in February 1995, the mean years of job tenure for part-time workers 25 and older was 6.8 years” (Polivka 1996). Though limited in hours and benefits, part-time employment has had a history of consistency and stability for many of its workers.

The growth of part-time employment during the past five decades is related to three primary factors; 1) demographic change in which the supply of workers has changed, including a significant increase in the number of women and teenagers occupying a larger percentage of the workforce, 2) factors of labor demand, like the shift from manufacturing toward industries such as trade and services that employ larger numbers of part-timers and flexible workers. Industries use so many part-time workers because they are predominantly made up of firms that have adopted a low-wage, low-skill, high-turnover secondary labor market (Tilly, 1996). Secondary part-time employment is the form that part-time jobs take in secondary labor markets. A secondary part-time job is marked by low skill, low pay and fringe benefits, low productivity, and high turnover. Managers cite low compensation and scheduling flexibility as its key advantages.

### **1.3 Temporary staffing agency**

Although part-time employment and temporary employment both involve temporal reduction or limitation, temporary employment may involve working full-time or part-time—depending on the needs of the company being staffed—and is more unpredictable than regular part-time employment (Carre & Tilly 1998). Temporary workers are equally as likely as traditional employees to be employed on a full-time basis (Peck & Theodore 2001) and are paid on an hourly basis. Due to the fact that staffing agencies are responsible for hiring, placing, paying, managing, or terminating their placed workers, in efforts to reduce the costs associated with maintaining in-house management, many companies are increasingly turning to temporary staffing agencies that take on staff management responsibilities. Staffing agencies are becoming more efficient and effective at meeting demands for labor in numerous industries and are well versed in “securing access to an ‘appropriately contingent’ labor supply—of willing, able, pliable and above all available workers” (Peck & Theodore 2001). These agencies are essentially in the business of leasing the freedom from risks associated with dealing with employees and taking care of payroll issues, paying workers’ compensation insurance, as well as addressing with any employee-related disturbances a company may suffer. Additionally, these employment arrangements may represent “the outsourcing of more

hazardous jobs, such that a greater burden of injury, illness, and fatality is carried by contingent workers than by traditional employees” (Cummings & Kreiss 2008). The company utilizing temp agency services gains the ability to rate employees, and consequently re-hire or terminate a worker, increase the amount of labor delivered to their offices, as well as reduce the number of workers. Within this type of work arrangement, both the company and the agency as labor intermediary gain much from the liberties and labor flexibility offered through temporary employment staffing.

The situation for the employee, on the other hand, is not always as flexible or beneficial. Although the worker reserves the right to refuse a job assignment, chances are the worker is in no financial position to turn down the opportunity for employment. Flexible and temporary employment, in this case, are not as beneficial for the worker whose rights to a living wage and employment benefits are stifled by economic, social and political vulnerabilities. Because Latinos, African-Americans, and the undocumented are among the most vulnerable, temp agencies have begun to dip into low-income. Temporary staffing agencies have located bountiful sources of labor to fill non-regular employment positions in cities like Chicago (Peck & Theodore 2001), and expanded their role in employment twenty-fold since the 1960s (Carre & Tilly 1998).

Temporary staffing agencies primarily place workers in manual work assignments at or around minimum wage. Increasingly, temporary staffing agencies are diversifying to white, pink, and blue-collar occupations, including light industrial and factory work, loading and unloading, and warehouse work (Theodore 2000; Kerr & Dole 2001; Roberts & Bartley 2002; Southern Regional Council 1988). Temporary staffing agencies are located in enclosed hiring halls with boarded windows or other neighborhood-based establishments (Peck & Theodore 2001). Depending on their location and the type of work they dispatch, many of the participants are undocumented, recently arrived, and have low levels of education. However, the participants also include non-immigrants, women, and a substantial homeless population. Participants in this market are vulnerable and exploited (Southern Regional Council 1988; Theodore 2000; Kerr & Dole 2001; Roberts & Bartley 2002; Tolchin 2001). In the United States, temporary staffing agencies (i.e., Kelly Girls) have existed since at least World War II (Rogers 2000) and currently supply a large bulk of the temporary work force in the United States.

For the past two decades, temporary staffing agencies have proliferated in urban cities, drawn to low-income neighborhoods because of the large supply of inexpensive, flexible, and easily available labor. For example, in Chicago’s inner-city neighborhoods, the temp industry has flooded both the Latino and African American community, eager to take advantage of the pliable labor pool and often becoming the largest “local employer.” They locate themselves near places where low-wage workers can be found, for example, homeless shelters and welfare offices (Theodore, 2000; Peck & Theodore 2001; Parker 1994; Oehlson 1997). Despite the large surplus labor available and the demand for temporary day laborers, many of the workers who participate through temp agencies do not secure work every day and only earn around minimum wage. Typically, the industry is characterized by long days, low wages, and lousy jobs. Workers arrive at neighborhood temp agencies prior to the break of dawn, usually at 4:00 or 5:00am, to begin the wait for a job assignment. Some hiring halls organize three shifts, doling out workers 24 hours a day. Many workers often wait for several hours before being dispatched to business clients on an as-needed basis. As a result, employment is unstable and participants in this market rarely secure work on a regular basis. Waiting at a hiring site is mandatory if one wants to be placed. Workers are dispatched based on different

criteria: the agency and its system of allocating work, the experience of the worker, and dispatcher discretion (which a worker can influence by accepting difficult, repeat work assignments, being reliable and receiving favorable reviews from employers). (Peck & Theodore 2001; Roberts & Bartely 2002).

Seeking work at temporary staffing agencies is highly structured with clear rules regarding favored participants and the requisite characteristics required for this line of work. For example, some agencies favor workers with documents, while others pay little attention to fraudulent documents or don't require them at all. Many temporary staffing agencies are located in targeted neighborhoods for the explicit reason of recruiting workers from a particular class status, skill set, social background, and ethnic group, with Chicago, for example, favoring foreign-born Latinos (Peck & Theodore 2001), the South preferring rural and urban African Americans (Southern Regional Council 1996), and Tucson and Chicago favoring vulnerable homeless workers (Roberts & Bartely 2002; Theodore 2000). While some skilled workers may have an advantage over others in securing skilled work, most participants undertake assembly work, hand packaging, materials moving, and other unskilled manual-labor assignments in the manufacturing and warehousing sectors. As a result of the large supply of day laborers seeking work through temp agencies, the relatively low skill requirements of the jobs doled out, and the difficulty in securing work on a daily basis, workers in this market are substitutable and thus compete vigorously for this type of employment.

Temporary staffing agencies often occupy run-down storefronts, with boarded windows in economically depressed inner cities. Their offices are small with a single large room, three fourths of which is filled with seats for the workers, with the other quarter is divided from the workers and serves as an office for the dispatcher. These often shabby and unkempt hiring halls are numerous in communities where large supplies of marginal and readily available workers live and willingly take jobs secured by temp agencies. In Chicago, where neighborhood segregation is well documented (Massey & Denton 1993), temporary staffing agencies are prevalent and highly visible. Peck and Theodore (2001) map the location of temporary help services for the City of Chicago and argue that the locational strategies of temp agencies deliberately avoid the majority of African-American neighborhoods in favor of largely Latino areas. As a result, they practice *de facto* discrimination against non-Latinos and deploy crude screening and placement techniques to ensure that employers get the racial and nativity preferences that they seek (Peck & Theodore 2001). As a result of locating in racialized neighborhoods, temp agencies reflect and add to processes of labor market inequities. These sites serve to reinforce Latino immigrant workers as the preferred hiring pool – who will search for work through “any means”; they harden the stereotype of the unemployable or unwilling African American man, and they improve employment opportunities for Latinos in several neighborhoods, thereby exasperating spatial mismatches between the *barrio* and ghetto and suburbs.

Temporary staffing agencies are also varied and fall along large national corporate franchise halls, smaller privately owned for profit local halls, and non-profit organizations usually run by homeless or immigrant rights and advocacy organizations. Their size, goals, and locations suggest different organizational practices and treatments towards workers. For example, non-profits have fewer, lower, or no “cost-of-working” fees for services such as transportation to work sites, equipment use or rental, check cashing, or standing fees (usually charged to the employer and discounted as overhead for the agency). Because these organizations are run by advocate or aid organizations, a larger proportion of the total fee

charged to the employer is allocated to the worker, translating into higher wages per hour on average than the other for-profit hiring sites.

National and regional for-profit hiring sites have a highly exploitative employment relationship with workers; regularly charging them a cashing fee for their daily check, requiring payment for transportation to the work site, requiring a deposit and fee for equipment use, and generally only paying minimum wage (Southern Regional Council 1988; Kerr & Dole 2001; Roberts and Bartley 2002; Tolchin 2001). In Tucson, Arizona, the fee typically charged to clients of formal day labor hiring halls is marked up by 100 percent over the wage paid to the worker, who is typically paid at or near minimum wage (Roberts & Bartley 2002). They also find that earning outcomes in the form of real wages is partially driven by the organizational form of temporary staffing agencies where working for nonprofit hiring sites has a large positive effect. Alternatively, seeking work at a corporate affiliated agency seemed to decrease real wages though this finding was not statistically significant (Roberts & Bartley 2002).

In Chicago where the temporary staffing industry had its origins (Moore 1965), competition between hiring sites is fierce, reflected in tight profit margins and downward pressure on costs (Peck & Theodore 2001). Unlike Tucson's oligopolistic temp industry, mark-up rates of up to 100% are non-existent. In Chicago, where literally hundreds of temp agencies dot the urban and suburban landscape thereby creating a perfect competitive industry, driving profit margins downward as agency after agency reacts to and competes with one another. As a result, wages are predictably low with the overwhelming majority (82%) of homeless workers earning an hourly wage of \$5.50 or less and those who work regularly earning less than \$9,000 per year (Theodore 2000). Kerr & Dole (2001) and Roberts and Bartley (2002) reported similar wages, but factored in "duty" fees and taxes resulting in lowered real wages.

Workers temping in formal sites earn less wages than their counterparts in open-air, day labor markets (see explanation of this type of non-regular employment below). Unknown however is the frequency of work that workers contract through temp agencies. That is, how frequently are men and women being dispatched to work during a typical week? As Roberts and Bartley (2002) show, the organizational structure of temp agencies matters in mediating real wages. However, little is known about wage differentials across regions or cities, and between spatial or neighborhood distributions of temp agencies within a city.

#### **1.4 Short-term and on-call employment**

According to Kalleberg (2000), Short-term employment involves fixed-term contracts between the employee and the firm and can also refer to an employment relationship based on an on-call basis. This arrangement is based on a direct employer-employee relationship, unlike the triangular relationship present among firms, labor intermediaries, and workers in the temporary staffing agency arrangement. Short-term or on-call arrangements are those that primarily take place during seasonal employment or for purposes of project completion (Kalleberg 2000). On-call employment can range from substitute teaching to catering, nanny, and nursing. These usually involve direct hiring of employees by an employer or client, however, with staffing agencies providing labor and services for an increasingly vast amount of industries, one can easily conceive of the shift that, according to Polivka (1996b), is taking place where firms are progressively opting for labor intermediary services rather than soliciting short-term workers directly.

## 1.5 Independent contracting

Independent contractors can be thought of as contingent workers since the services they provide are contingent and subject to change depending on the employer or person requesting the task and the level of demand. However, most independent contractors possess the characteristics of entrepreneurs, are self-employed, and are instead considered as holding *alternative* work arrangements. Accordingly, “[i]n contrast to contingent workers, those with alternative arrangements may or may not have an implicit or explicit contract for ongoing employment” (Copeland, Frostin, Ostuw & Yakoboski 1999). Independent contractors are more likely to have a family income above \$50,000 and have a graduate degree than workers in contingent and other alternative work arrangements (Ibid).

Informal workers, such as day laborers, are often misclassified as “independent contractors”—a misclassification that serves exploitative purposes and denies the laborer rights to fair and adequate wages, job security, and safety protection. I believe this has to do with the fluid definition of contingent employment, employer willingness to capitalize on employment precarity, laborer vulnerabilities, and a lack of explicit and consistent policy dedicated to clearly defining the title “independent contractor.” Since “independent contractor” is not explicitly defined, those seeking to establish protections for mislabeled workers have instead gravitated toward the definition of “employee” to distinguish between the true independent contractor and their contracted employees. To this effect, the employee is defined as, basically, “someone over whose work and employer exercises direction or control and for whom there is extensive wage reporting and tax responsibility” (Simmons)—tax liability being yet another incentive for employers to misclassify employees. It is estimated that 38% of employers “misclassify their employees as independent contractors” to dodge the cost of paying worker’s compensation insurance and/or fringe benefits (Kalleberg 2000).

## 1.6 Day labor employment

Day labor is perhaps among the most contingent and precarious forms of employment. According to Valenzuela (2003) “[n]o formal definition of day labor exists, although the term is mostly used to convey a type of temporary employment that is distinguished by hazards in or undesirability of the work, the absence of fringe and other typical workplace benefits...and the daily search for employment” (308). This work arrangement is often occupied by undocumented Latino males and can be formal or informal, though licit in either case. Many temporary employment agencies making their way into the inner-cities function as day labor hiring halls and match day laborers with clients where hard manual labor is carried out in the form of primarily construction work, and painting (Valenzuela 2003). Due to their undocumented status, low-levels of education, and recent arrival to the U.S., day laborers represent a very vulnerable population and are often exploited in the form of low wages, wage theft, physical abuse, and abandonment at worksites, and other numerous ways (Peck & Theodore 1998, Theodore 2000, Valenzuela 2003, Cummings & Kreiss 2008).

More specifically, day labor is the industry where men (and some women) congregate on street corners, empty lots, or parking lots of home improvement stores, rental truck outlets, and paint stores to solicit temporary daily work. This type of work is growing and increasingly visible in cities throughout the United States that have large concentrations of working poor residents and Latino immigrants. Day labor is unstable and poorly paid, with most workers obtaining only one or two days of work per week with wages clustering at \$8-

10 per hour. The work that day laborers perform is often dangerous and dirty and is mostly in construction, landscaping, moving, demolition, and painting. With the exception of a few studies, we know little about this labor market because the workers move in and out freely, federal agencies inadequately define day labor and thus do not count the participants accurately, and a large proportion of these workers are foreign-born, unauthorized, and Latino making them difficult to study.

The practice of men and women gathering in public settings in search of work dates back to at least medieval times when the feudal city was originally a place of trade. In England during the 1100s, workers assembled at daily or weekly markets to be hired. Statutes regulated the opening of public markets in merchant towns and required agricultural workers (foremen, plowmen, carters, shepherds, swineherds, dairymen, and mowers) to appear with tools to be hired in a “commonplace and not privately”. In the United States, during the early to mid 1800s, day laborers recruited from construction crews worked for track repairmen of railroad companies. Casual laborers (often off from construction jobs) worked in a variety of unskilled positions (brakemen, track repairmen, stevedores at depots, emergency firemen, snow clearers, mechanic’s assistants). Some of these workers were recent immigrants – Chinese and Mexicans in the west and Germans and Irish in the east. Between 1788 and 1830, hundreds of day laborers (stand-ups as they were known then) worked along the waterfront and more than half of New York City’s male Irish workers were day laborers. In 1834 a “place was set aside on city streets in New York where those seeking work could meet with those who wanted workers.” This exchange worked for both men and women, with employment for women (primarily African American) concentrated in the domestic labor market sector.

Since at least the mid 1800s, shape-up sites in New York and other Northeast ports provided a system of hiring dockworkers for the day or half-day (minimum of four hours) by seemingly arbitrary selection from a gathering of men. Under this casual labor system, longshoremen seeking work were forced to gather on the docks every morning to await the “shape-up” call from a hiring foreman signaling for the men to gather around him, usually in the shape of a circle or horseshoe to be selected for work for the day or a four hour shift. The number of men seeking work typically outnumbered the available jobs.

Contemporary (since at least the early 1970s) day labor is not much different from the past. Most of the participants are men, recent arrivals, and their work is primarily in the construction industry. To the extent that women participate in day labor, their work is primarily in domestic help. The growth and development of day labor in the United States and elsewhere has very real implications for thousands of workers and their employers. In its simplest form, day laborers provide a distinct service to employers who wish to forego traditional forms of hiring workers and prefer not to undertake the time consuming and costly activities associated with “regular” employment. The gains from hiring day laborers are clear — day laborers are easy to find, plentiful, and relatively inexpensive to hire. Employers are spared liability and bureaucratic paper work. A subcontractor needing help to finish a project can easily hire a day laborer for several hours or several days to tidy up, remove debris, clean the site for inspection, or for other types of unskilled and skilled tasks. A job or project that would normally entail paying a non-day laborer at a higher rate is easily circumvented via this market. Similarly, a homeowner wishing to move from one home to another or uproot a tree in his or her backyard need not hire an expensive contractor for this seemingly simple but labor intensive job. Day laborers also find some benefit from this type of labor market if they would not otherwise be employed. In addition, day laborers get paid in cash (usually

untaxed), can walk away from a job if dangerous or particularly dirty, and can negotiate a wage for a fair day of work. Finally, for some day laborers, this occupation provides flexibility from a regularly scheduled job, autonomy from a difficult employer, and the opportunity to learn different skills.

Based on a national (Valenzuela et. al., 2006) survey of day laborers we know some key facts about the men (and the few women) who undertake this line of work. For example, on any given day, approximately 117,600 workers are either looking for day labor jobs or employed as a day laborer. Most day laborers congregate at informal hiring sites that have formed in front of home improvement stores and gas stations, along busy thoroughfares and near expressway onramps, and in parks and other public spaces. Because there are a small number (64 nationally) of worker centers, a minority of workers seeks work at formalized hiring halls where day laborers and employers arrange the terms of employment for the day. The day labor hiring site is a dynamic labor market whose size and dimensions change by the season, week, day and even hour. The daily flow of workers through a site can vary dramatically as workers leave the site once they receive a job assignment and new job seekers are drawn to the site in their search for employment.

The largest concentration of hiring sites and day laborers is in the West, while the Midwest is the region with the fewest number of sites and workers. The day labor workforce in the United States is predominantly male (just 2 percent are female) and largely comprised of migrants from Mexico and Central America (see Figure 1). More than half (59 percent) of day laborers were born in Mexico, 14 percent were born in Guatemala and 8 percent were born in Honduras. United States-born workers comprise 7 percent of the day labor workforce, though in the southern region of the country, almost one in five day laborers were born in the United States. Three-quarters of the day labor workforce are undocumented migrants. However, about 11 percent of the undocumented day labor workforce has a pending application for an adjustment of their immigration status. It was not possible to determine how many of these workers may indeed be eligible for temporary or permanent immigration relief.

Overall, day laborers tend to be relatively recent immigrants. Almost one in five (19 percent) migrated to the United States less than one year before they were interviewed at a day labor hiring site, while 40 percent has resided in the United States for one to five years. Less than one-third of day laborers (29 percent) have resided in the United States for between six and 20 years, and 11 percent has resided in the United States for more than two decades.

Day laborers experience a high incidence of workplace injury. One in five day laborers has suffered an injury while on the job. Rates of work-related injury are highest in the Midwest where one-third of day laborers have been hurt on the job. Most day laborers are aware that their work is dangerous, but the pressing need for employment finds them returning to this market to search for work. About three-quarters of day laborers nationwide find their occupations to be dangerous, while in the Midwest, where roofing jobs are undertaken at significantly higher rates than in the other regions, an astounding 92 percent find their work to be dangerous.

Employer violations of day laborers' rights and violations of basic labor standards are an all too common occurrence in the day-labor market. Wage theft is the most typical abuse experienced by day laborers. Nearly half of all day laborers (49 percent) have been completely denied payment by an employer for work they completed in the two months prior to being surveyed. Similarly, 48 percent of day laborers have been underpaid by employers during the same time period.

In addition to the hundreds of informal hiring sites that have proliferated across the United States, 64 day labor worker centers or formal hiring sites have emerged by community organizations, municipal governments, faith-based organizations and other local stakeholders exist to curtail wage theft, abuse, and hazardous working conditions. The creation of day labor worker centers is a relatively recent phenomenon, with most having been established since 2000. Worker Centers typically are located near informal day-labor hiring sites, offering both workers and contractors an alternative to the unregulated sites found on street corners and in parking lots. Indeed, location can be a crucial determinant of a center's success, and these hiring sites frequently are established in areas where both workers and employers have ready access.

Most day labor worker centers provide fairly basic accommodations to workers and employers. All operate as hiring halls where employers and day laborers can arrange work for the day. Available amenities and services typically include restrooms, drinking water, places to sit, telephones, classrooms, outreach to employers and parking facilities. But even such simple provisions are a marked improvement over informal hiring sites. Moreover, they serve to establish a worker center's presence in the day-labor market. The primary purpose of day labor worker centers is to regulate the day labor market by intervening in the market and establishing rules governing the search for work and the hiring of laborers. Through these core activities, worker centers are able to place a floor under conditions in the day-labor market and to curtail abuses and workplace injuries.

### **1.7 Informal employment**

Informal economy or employment is often referred to as the black economy, the underground sector, and the shadow or hidden economy. Informal employment is paid work beyond the realm of formal employment and involves the paid production and sale of goods and services that are unregistered by, or hidden from the state for tax, social security and/or labor law purposes, but which are legal in all other respects. Paid informal work also includes all legitimate activities where payments received by individuals are not declared to the authorities. Informal employment also includes work in illegal activities such as prostitution, the manufacture and sale of illicit goods, and drug peddling. Therefore, informal employment is composed of three types of activity: evasion of both direct and indirect taxes; social security fraud where the officially unemployed are working while claiming benefit; and avoidance of labor legislation, such as employers' insurance contributions, minimum wage agreements or certain safety and other standards in the workplace, such as through hiring labor off-the-books or sub-contracting work to small firms and the self-employed asked to work for below-minimum wages (Williams and Windebank, 1998: 4). There are many myths regarding this type of employment particularly concerning its growth in advanced countries such as the United States, and its participants who are often characterized as the unemployed, the impoverished, women, immigrants, and ethnic minorities in low-income communities.

Castells and Portes (1989:12) demonstrate alternative or informal income-generating activities characterized by one central feature: "it is unregulated by the institutions of society, in a legal and social environment." As a result of the absence of institutional regulations, different work processes are ignored, changed, or amended. For example, labour may be clandestine, undeclared, paid below the minimum wage, or employed under circumstances that society's norms would not otherwise allow. The conditions under which we work also fall under the control of institutional regulations and involve land-use zoning, safety standards, hazardous or toxic dumping in the work place, and other health-related work issues. Informal

employment often does not adhere to institutional regulations of these types. Three primary debates drive most of the research on informal employment and help us better understand the origins of this alternative economic activity and the participation of immigrants, ethnic and racial minorities, women, and other marginalized group in this form of employment, they are: formalization, informalization and marginality theses.

The formalization thesis argues that as economies become more developed or advanced, informal employment declines, eventually disappearing. This notion is rooted in “first and third” world dichotomies, which define underdeveloped, or Third World countries and developing, and the First World as developed or advanced. Informality exists in developing countries and is part and parcel of their “backwardness” which will eventually disappear as economic advancement and modernization occurs. Immigrants, especially those coming from Third World or undeveloped countries, export their economic activities including informal employment. Proponents of this argument use this rationale to explain the preponderance of informal activities in countries such as the United States, Canada, and other advanced economies.

On the other hand, the informalization thesis argues that advanced economies are witnessing a growth of informal economic activity for reasons having to do with economic restructuring and globalization. For example, Sassen (2000) argues that the very development that is undergoing in advanced and developing economies is precisely what has increased the growth of informality. A combination of growing inequality in earnings and growing inequality in profits of different sectors of the urban economy has promoted informalization of an array of economic activities. She argues that informal employment is a structured outcome of current trends in advanced economies (Sassen, 2000:7). As a result of restructuring and other economic, social, and political fissures, informal employment has increased in visibility, stature, and participants. She argues that informalization is embedded in the structure of our current economic system, particularly manifest in large cities where informalization emerges as a set of flexible-maximizing strategies employed by individuals, firms, consumers, and producers in a context of growing inequality in earnings and in profit-making capabilities.

Finally, the marginality thesis states that immigrants, women, ethnic minorities and other vulnerable groups participate in informal employment at higher rates because their status is peripheral, disadvantaged, and outside the margins of formal economic activity. Are immigrants (and racial and ethnic minorities) more prone to informal employment? According to an extensive review of the literature on informal employment (Williams and Windebank, 1998), they are. However, this conclusion is mostly based on U.S. research on this topic, the vast majority concerning the extent to which immigrant and minority populations engage in informal employment and the type of paid informal activities. Most work on this topic focus on low-paid, labor intensive, non-unionized and exploitive occupations in poorer areas with high concentrations of either immigrant, ethnic minorities or both (see Fernandez-Kelly and Garcia 1989; Portes 1994; Sassen 1989; Stepick 1989). As a result, informal employment is closely associated with immigrants and minorities.

Even among immigrants and ethnic minorities, further delineation of these two groups is needed to better assess their participation in informal employment. For example, immigrants from different origins and legal status are important to distinguish when assessing employment opportunities. Naturalized legal immigrants have a qualitatively different experience in the U.S. labour market than do unauthorized immigrants who entered the country without inspection and from those who overstayed their student or tourist visas.

Unauthorized immigrants in the United States, by virtue of their tenuous status, participate in informal employment at higher rates than do authorized immigrants.

Excluded from formal employment as a result of proper documentation, unauthorized immigrants have little choice but to engage in informal employment as a means of generating income. As a result, the most visible forms of informal economic activities are replete with immigrant participants, ostensibly immigrants without proper documents. However, not all unauthorized immigrants partake in informal work. Many employers in the formal sector pay little attention to federal regulations mandating the hiring of all workers immigrant or otherwise. As a result, they may not adhere to the strict statutes governing new employee hires and the required documents needed to finalize employment. In addition, unauthorized immigrants can seek fraudulent documents or use someone else's documents to obtain formal employment. In 2009 (the last time the United States Census Bureau estimated the size of the unauthorized population), twelve million immigrants without documents were estimated in the United States, with approximately half coming from Mexico, and slightly less than half concentrating in California. Many of these immigrants undoubtedly worked in informal employment and many did not. Although obviously engaged to a greater extent in informal activity than other groups, immigrants also participate in other forms of marginal, formal sector employment such as flexible or contingent work. One should however be cautious in attributing all or even a majority of informal employment to immigrants and racial and ethnic minorities. Informal employment also includes work in white collar, pink collar, and blue-collar industries in which non-minority and non-immigrant groups participate in large numbers.

Are the poor, particularly those that are unemployed more prone to participate in informal employment activities? The primary connection of informality to the poor is through alleged cases of benefit fraud committed by welfare cheats – women and men who claim benefits while also employed in an underground activity so that earnings and taxes are not reported to a government agency. Related, those without work as a result of structural economic changes such as a recession might turn to informal employment as a buffer or alternative to unemployment. Most analysis of the poor participating in informal employment assumes that a significant percentage of the officially unemployed are in reality working “off the books,” being paid in tax-free cash. According to Williams and Windebank (1998: 50), participants in informal employment are not usually the jobless nor are participants doing it as a survival strategy as a result of economic exclusion or unemployment. Instead, their review of research in this area shows that the unemployed find it more difficult than the employed to augment their incomes through informal employment. Rather, working in informal jobs is primarily a strategy to accumulate extra resources for those who already have a job. The vast majority of studies find that the employed tend to engage in more autonomous, non-routine and rewarding informal jobs than the unemployed who conduct more routine, lower-paid, exploitative and monotonous informal employment (Williams and Windebank, 1998: 52). Here they suggest a segmented informal market in which employed workers get the better informal jobs, while unemployed workers get the worse informal jobs.

The literature concerning the unemployed or poor in the participation of informal employment therefore suggest that informal employment is concentrated by those who already have a formal occupation and who find relatively well-paid informal employment. These workers get side jobs for example if they are in the construction industry and a neighbor fancies their skills and hires them for a “weekend” job undertaking a repair or refurbishment job at their home. Other examples include repair men who will do “side-jobs”

for a fee below market, but clearly profitable and often conducted on a self-employed basis. On the other hand, the unemployed or poor generally engage in relatively low-paid organized informal employment, which tends to be more exploitative, more dangerous, and poorly paid in nature. As a result, the unemployed and the poor do not disproportionately participate in and gain from informal employment and should not necessarily be considered a survival strategy.

The feminization of poverty clearly indicates that women are the primary beneficiaries (whether good or bad) of public policy related to poverty (i.e., welfare reform) and they are also the largest number of poor in the United States and other parts of the world. Given their large numbers of the poor, are they more likely to participate in informal employment? What is the gender division of informal? According to Williams and Windebank (1998: 66), studies on informal employment do not point to greater participation by women and that men constitute the majority of the informal labor force. Of course, exceptions to this general rule exist and in many regions and occupations, women are participating in larger numbers than men in informal employment such as domestic work. What is clear is that when women do participate in informal employment it is primarily concentrated in super exploitive jobs and it is more likely to be low-paid. In contrast, men tend to be engaged in the higher-paid and more autonomous forms of informal employment (Williams and Windebank, 1998: 80) such as construction, repair, and landscaping. Other important gender factors similarly constrain and aid both genders and their participation in informal employment.

For example, women participate in informal employment on a part-time basis mostly because of their domestic roles and household responsibility constraints. Furthermore, their motivation is more economic, based upon the desire to generate extra income to help the family get by during lean times. According to Williams and Windebank (1998: 80), for men, informal employment is more irregular but full-time and is often undertaken for the purpose of earning spare cash for socializing and differentiating themselves from the domestic sphere and women. Therefore, a clear gender segmentation of the informal labor market both in terms of the work undertaken, motivations, pay and the types of men and women who undertake this line of work is evident.

## **2. Shifting Toward Contingent and Alternative Work Arrangements**

Non-regular employment arrangements saw their rise in the 1950s and 60s in the form of part-time employment, as baby-boomer-teenagers and their mothers sought to generate their own income. This period was characterized by a demand for flexible employment on behalf of job seekers, while the 1970s and 80s marked a shift in demand dominated by employer desire for flexible labor and employees. According to Kalleberg (2000, 2008), global price competition driven by the oil shock of the mid-70s channeled in a process of neoliberal globalization that “increased the amount of competition faced by companies, provided greater opportunities to outsource work to lower-wage countries, and opened up new labor pools through immigration.” Lethargic growth of the economy caused unavailability of full-time positions, leading firms to offer part-time employment instead, which explains the rise in part-time employment during periods of economic depression (Kalleberg 2000; Carre & Tilly 1998). Copeland et al. (1999) attribute the drop in contingent employment from 2.2-4.9 percent in 1995 to 1.9-4.4 percent in 1997 to a strong economy (alternative work arrangements remained at 9.9 percent both years). It appears that the economy has a greater impact on contingent arrangements than alternative arrangements allowing for an inverse

correlation between the state of the economy and the increase/decrease in contingent employment. Therefore, the current economic recession in the United States suggest that non-regular employment will increase.

Globalization, technological advances, industrialization, the current U.S. recession, and the deregulation of the labor market via institutionalization of contingent and alternative work arrangements have more recently and more aggressively contributed to the rise in non-regular employment. Advances in technology today have enabled communication within and across borders, consequently enabling the outsourcing of labor and services to geographic locations that promise efficiency, effectiveness, and economic profit through cheap labor. This process of relocation or outsourcing is known as free employers “from conventional temporal and spatial constraints” (Kalleberg 2008). Kalleberg also writes that the increasing centrality of the service sector has led to the privatization of activities that traditionally took place in the household and include things like childcare and cleaning. These are now services offered through temporary staffing agencies and hiring halls, and not to mention day laborers that represent an important component of the informal labor workforce. Additionally, employment fissures like layoffs have gone from involuntary terminations to strategies for restructuring, and precarity has spread to all sectors of the economy, all the while the psychological impact of precarity on the American people is of little concern (Ibid).

### **3. Scenarios for Shifting to Permanent Employment**

A key strategy used by management in their employment of non-regular workers was to only selectively transition non-regular workers to permanent employment. Strategies for doing this differed by the three establishments that I interviewed. For example, in the hotel industry, I was informed that they were unlikely to ever go back to only hiring permanent workers. Their reliance on temporary staffing agencies or subcontracting companies was very embedded in their management strategy. Nevertheless, the personnel manager who I interviewed mentioned a few examples of temporary workers transitioning to permanent employees, usually as low-level management or in supervisory roles, “to make sure that the temps were doing what they are supposed to be doing.” The use of temporary workers was key to management for screening possible workers who could become permanent. It allows them to observe over several months the capacity, skill, and other attributes that they value. According to the same manager, “observing workers is beneficial to both our company and the worker. We check them out and they check us out. If we don’t like them or if they don’t like us we can say our goodbyes and the transaction cost for parting is minimal. We don’t lose any training dollars, we don’t lose in severance pay, we don’t lose in any way.”

When I probed my respondent on how many temporary workers had transitioned to permanent status, he was unable to provide any solid numbers, which suggest that perhaps the numbers were very small. To be sure, a very large share of their total employees is permanent (he estimated 70 percent) but that figure is likely to change if we are to believe that management is constantly looking to outsource their permanent employees, including work in reservations, physical plant, grounds keeping, and food preparation and cooking. Indeed my interviewer for this large hotel chain said that upper management is moving towards an even greater reliance of temporary staffing agencies to fill these jobs.

The electronic company that I interviewed is similarly moving towards replacing permanent workers with temporary ones for some of the same reasons outlined above for the hotel chain. Their occupational base (types of jobs) however was less diverse and so a larger

segment of their employees were not permanent. For example, working on the assembly line was mostly undertaken by temporary workers who might work from one to several months, depending on the company's success and market share that it occupies. The manager who I interviewed discussed at length how they were forced to move in this direction even more aggressively as a result of the current recession. "We don't have a choice, when consumers stop buying electronic products, that impacts our business and when production slows, we can't keep our regular (permanent) work force on payroll – it would increase our losses and force bankruptcy. As a result, we are increasingly relying on temporary staffing agencies to fill our needs. We also have some part-time workers but after awhile, they start to complain about wanting permanent work, and benefits, and more pay and we can't do that. So, instead, we rely on temps because they don't ever get too comfortable with us because we don't employ them for long or we let them go immediately."

The department store that I interviewed relied less on temporary staffing agencies and more on part-time employees who they could rely on to represent their brand label and reputation. For example, during key holidays and events, they could call on part-time workers to increase their hours to meet their employee demand. When they could not secure more workers from their "permanent" part-time staff, they would then revert to temporary staffing agencies. Part time workers provide a more stable and knowledgeable staff than temps. For example, the manager who I interviewed complained that the problem with temps is that "they don't know our products the way our employees (salesperson) do and that is critical to our success." Retail establishments rely on students, women, youth and other part-time work seekers because they provide the flexibility to meet their employee demand during peak hours of the day and seasons, including cyclical variations in sales as a result of the ongoing recession. "Students are especially good because they are smart and can quickly learn about our products and they don't really care about benefits, wages and other things. They can earn money from commissions which also drives them to sell, sell, sell." Transitioning workers from part-time to full-time was not a very important strategy though the manager suggested that over time, and especially if the economy recovers and more consumers spend, then a shift from part-time to full-time from its workforce would likely occur.

Data from the National Day Labor Survey (Valenzuela et. al. 2006) clearly shows that day labor workers prefer permanent work to temporary. The data is overwhelming with well over 75 percent stating that they would leave day labor work for employment even in lower paid occupations as long as the work was steady. Indeed, when you analyze data on the infrequency of day labor work, including the high rates of wage theft, occupational hazards, and other workplace abuses, it becomes no surprise that day labor workers prefer permanent to temporary work. This preference is not surprising. On average, day laborers are dispatched to job sites on average 2.6 times during a seven-day search.

Although the majority of day-labor assignments pays \$10 per hour or more, the monthly and yearly earnings of most day laborers place them among the working poor. The instability of work combined with occasionally low hourly wages results in low monthly earnings for most day laborers, even during peak periods when work is relatively plentiful. In addition, workdays lost to job-related injuries and illness, and the underpayment of wages by some employers, contribute to the problem of low monthly earnings of day laborers. Permanent work is therefore preferred by the overwhelming majority of day laborers and I would argue that most involuntary part-time workers and other contingent and non-regular workers would prefer stable, regular work.

According to the interviews that I undertook, moving between permanent and non-regular worker status was fluid. For example, the department store manager emphasized that when the economy was strong and demand for their goods was evident, workers could request more or less hours and the company would try to accommodate them, this was especially true during peak or holiday shopping periods and less so during down times, when consumer buying slows down in which case movement is downward, that is, from permanent to part-time. Personnel costs (e.g., benefits) related to this movement, while real, were not a barrier to this movement back and forth. When asked about this specific issue, my respondent said that it was relatively easy to transition workers from part-time to full-time and that costs did not factor into the equation when there was a directive or need for more regular workers.

This scenario contrasts with the electrical firm whose cyclical variations in product output, as a result of a robust or bad economy, meant that moving from temporary to full-time and visa versa was not an easy process. Indeed, management discouraged this sort of movement, unless it was from full-time to temporary because the cost savings were significant. Management stated that when the current recessionary economy improves and demand for their products increases on a regular upward trajectory, the company is unlikely to go to a more permanent staff for several reasons. First, there is concern that moving towards a more permanent workforce too fast doesn't allow for the company to fully take advantage of their temporary workforce. Second, the company is getting used to and learning how manage their temporary workforce and so therefore, why go back to a more costly permanent workforce when you can manage with either part-time or temporary workers. Finally, the lack of legal oversight and liability to the company is a strong incentive to continue with temps.

#### **4. Equal Treatment for Equal Work**

After reviewing the literature on non-regular employment and undertaking key interviews, the data overwhelmingly suggests that non-regular workers are treated differentially than are regular employers, including those workers who undertake the “same kind” of work within the same workplace, of the same company or establishment. For example, the temps hired for the electrical firm and the hotel company who undertook similar work as the full-time or permanent workers were treated differentially despite taking the same level of difficulty or the same task (scope). Qualification and authority/responsibility tended to move the difference in pay closer, but even among more or less equally qualified workers, if you were a temp, you were not considered as one manager put it, “as family” and so therefore justified differences in pay (wages) and other perks, such as paid leave, scheduling of weekly working hours (permanent workers were given preference), opportunities for skill development (above and beyond what they would learn as temporary or part-time workers), and of course differences in social and unemployment insurance including benefits packages which were non-existent for temporary or part-time workers. Perhaps the one exception might be opportunities for promotion or to permanent employment.

The respondents were all consistent in articulating that if a temporary or part-time worker was excellent and hard working, opportunities for their advancement existed, particularly if they showed potential in management or lower-level supervisory roles. According to one respondent, “management is always looking for good talent from our temporary worker ranks. If we identify an excellent worker, we will check them out and if an opportunity exists, we will promote them to permanent work and even into supervisory roles.”

I asked if this occurred on a regular basis and only the hotel company stated that it occurred with more or less regularity. The electrical and retail establishment respondents stated that opportunities for permanent or promotional opportunities existed but didn't occur very regularly. They also admitted that no formal policy or strategy existed to promote this movement whereas the hotel company said that management let it be known that excellent workers from the temporary staff should be identified and cultivated for permanent employment.

Indeed, the manager who I interviewed saw the temporary staffing agencies as a job screener, a formal probationary process in which workers would "put in their time as temporary workers and if they could prove their worth, they could possibly become permanent." Hiring temporary workers by this hotel chain allowed them to assess the worth of these workers and to identify those who could be important assets into the future. It allowed the company to circumvent training and other costs associated with hiring a permanent employee by having the temps work at a low wage, without benefits. From this pool, they could identify and hire a permanent worker and have them immediately start in their "new" role, sometimes even undertaking the same responsibilities but within a supervisory context and as a permanent worker without having invested resources into their training.

As a result of concessions and other developments within labor unions in the United States, many workers in the rank and file may belong to a tiered system, usually based on seniority, and other possible factors (e.g., skill level, experience) that relegates non-regular (mostly part-time) workers to a different ("second class") status in a labor union. Though clearly, benefits exist but are increasingly moving to a tiered system in which the most recently hired, including younger workers, have to pay for example, higher insurance premiums or may be subject to a different pay scale and different yearly or bi-yearly merit reviews and increases.

Besides unions, some segments of the non-regular workforce is organizing, employing some of the tools of traditional labor unions but clearly differentiating themselves from organized labor. For example, day laborers themselves are organizing and winning campaigns to improve their work lives. They do so under extremely difficult circumstances, undertaking their activities at the intersection of a popular nativist discourse; an anti-immigrant backlash; the threat of immigration laws that are at best punitive and mean-spirited; a restructured labor market that disadvantages low-skilled immigrant workers, especially those without documents; and an industry in which employers routinely violate workers' rights. They organize according to what is called a worker center (see Fine, 2006).

Worker centers have emerged as the most comprehensive response to the workplace abuses that day laborers and other non-regular employees endure. The example that I highlight is one that I know well and is based on my own research on day labor. The advent of day labor worker centers is relatively new the most worker centers having been created during the past decade. For day laborers, worker centers do multiple functions, including addressing community tensions that have arisen as a result of workers gathering near residential areas, storefronts, or busy thoroughfares. Across the United States, there are over 65 day-labor worker centers operating in 15 states. In these safe places, workers can search for employment in a hassle-free, supportive, and friendly environment. Most worker centers, often no more than enclosed or open-air venues with seats or benches, are sponsored by municipal governments and administered by local, community based organizations or church groups. In their more developed form, they are full-service community organizations that

operate a hiring hall, coordinate workers' rights activities (filing wage claims, OSHA training), provide services (ESL courses, civic leadership), and sponsor community events (litter cleanup days, soccer tournaments, open houses) with the primary objective of improving the working lives of day laborers.

Fundamental to the value of worker centers is their ability to intervene on both the demand and supply sides of the day-labor market. On the demand side, worker centers monitor employer behavior, increase the transparency of the hiring process, and provide an institutional foundation for holding employers accountable for workplace abuses.

On the supply side, they organize and normalize the hiring of day laborers, monitor worker quality, and provide opportunities for workers to be incorporated into the mainstream economy through employment assistance and, in some cases, skills training. The contributions of worker centers go beyond the day-labor market itself. In the communities where day laborers work and live, these centers participate as key stakeholders in resolving neighborhood conflicts over day labor. But as community institutions, they are just one strategy in a broader organizing campaign to improve the working lives of immigrant day workers.

Through the efforts of the National Day Laborer Organizing Network (NDLON; see [www.ndlon.org](http://www.ndlon.org))—an alliance of workers' rights advocates, worker centers, community organizers—day laborers are taking matters into their own hands. Established in 2000, NDLON comprises 33 community-based organizations that mobilize day laborers in cities across the United States. Most of its leaders are former day laborers. It holds regular strategy conference calls and convenes national and regional meetings to advance the common goal of protecting workers' rights, safeguarding immigrant rights, and defending human rights. NDLON member organizations come together as a national network for collective strategizing and planning, leading national actions, sharing best practices, and creating community-based, regional, and national alliances.

NDLON's activities have yielded important results. These include the opening of worker centers in neighborhoods throughout the United States; organizing and educational campaigns for workers on street corners; leadership development through popular education; and providing services, including legal, that promote and defend immigrant workers' labor and civil rights. The network is impressive for its reach and success at organizing the residential construction workforce, a segment of the labor market that traditional unions have historically shunned. NDLON's success comes from organizing itself into a strong national network, establishing key alliances with the labor movement, exerting its influence on public policy at the federal and local levels, and waging battles in the legal arena and in the popular media to counter-attack the blitz from the far right.

With billions of dollars in wholesale and retail construction expenditures, several hundred thousand construction workers, and unchecked workplace abuses and unfair labor practices, the AFL-CIO, the Laborers, and other affiliated unions have tapped NDLON to essentially teach labor how to organize this sector. The mutual benefits are clear. Perhaps more importantly, NDLON enters the mainstream labor movement with the protections and advantages of organized labor, an alliance that may very well yield positive results in a Democratically controlled Congress and, possibly, the White House with the election of Barak Obama. As immigration reform continues to percolate, a more sympathetic and liberal D.C. is more likely to address the concerns of labor, including those of day laborers.

The AFL-CIO's far-reaching political ties and resources can make a difference in presenting the work of NDLON to the public, as well as day laborers and the industry that

exploits them. Day laborers' ascension into the union ranks would go a long way to improve their work lives and to safeguard and expand their human, civil, and immigrant rights. The catalyst for securing justice for day laborers is in place. For several years, through NDLO's charismatic leaders, day workers have increased their visibility and improved their ability to organize and stage campaigns locally.

For example, in Los Angeles, day laborers have negotiated with the city to support the operation of almost a dozen worker centers. While resources provided by the city are modest, they total more than \$1 million yearly. NDLO is now working with a former council member to create a tax incentive for home-improvement stores that would earmark resources for establishing and running worker centers, with the eventual goal that city resources be eliminated. Meanwhile, New York City only recently (2006) established a commission to assess the efficacy of opening worker centers with city resources.

Finally, through partnerships with the ACLU, MALDEF, and the National Employment Law Project, NDLO has waged key legal battles that are shaping national precedents on how federal, state, and local courts rule on local ordinances that would shut down employment solicitation, but instead prompt harassment, vigilante justice, and wasted law-enforcement resources. Class-action suits are being considered against unscrupulous employers, and other legal battles over wage claims, harassment, and other violations have given day laborers an important voice in the legal battle for justice.

While the battle has just begun, the ability of worker centers, organizers, and day laborers—a ragtag, relatively new collective—to change how elected leaders and the public perceive immigrant workers is phenomenal. Even more impressive are the victories they have won and the improvements in workers' lives that have resulted. But this movement faces stiff challenges, most perniciously the failure to legalize the status of undocumented workers.

## **Conclusion: Non-Regular Employment as a Social and Policy Issue**

The literature on social and policy issues related to non-regular employment is mostly focused on legal issues and legislative mandates related to this issue. For example, under the federal Equal Pay Act (govtrack.us 2010), part-time workers and temporary employees are not subject to strict rules that men and women doing the same job must be paid equally. Also, many companies not wishing to offer benefits required to be offered to employees under the federal Family and Medical Leave Act (FMLA) are exempt from that law when they employ a sufficient number of temporary, contract employees or part-time workers (defined in the act as those who work 25 or fewer hours a week) which reduces the number of full-time employees to under 50.

In December 2008, Senator Kennedy (D-Mass) and Senator Maloney (D-NY) introduced the *Working Family Flexibility Act* (govtrack.us 2010), which would grant employees the right to request reduced hours or an alternate work schedule. If this bill is passed, state and federal regulators will be forced to clarify several labor & employment laws, in the wage & hour arena. “Working Families Flexibility Act - Authorizes an employee to request from an employer a change in the terms or conditions of the employee's employment if the request relates to: (1) the number of hours the employee is required to work; (2) the times when the employee is required to work; or (3) where the employee is required to work. Sets forth certain employer duties with respect to such requests.

The Act makes it unlawful for an employer to interfere with any rights provided to an employee under this Act. It authorizes an employee to file a complaint with the

Administrator of the Wage and Hour Division of the Employment Standards Administration of the Department of Labor for any violations of such rights and it provides for the investigation and assessment of civil penalties or the award of relief for alleged violations, including the review in federal courts of appeal of orders of the Administrator. It also requires the Secretary of Labor to carry out a research, education, and technical assistance program for employers, labor organizations, and the general public regarding compliance with this Act. Finally, it applies the requirements of this Act to certain classes of employees, including employees of the Government Accountability Office (GAO) and the Library of Congress.”

“Lower-Wage Workers and Flexible Work Arrangements,” released by the Urban Institute at Georgetown Law School, as part of its *Workplace Flexibility 2010* (govtrack.us 2010) report, discusses the complexity of employment flexibility for lower-wage workers and non-standard workers. Although many studies express the need for more effective FWA (flexible work arrangements) in the professional sector, this study urges the need for policy to establish and protect FWA in the lower-paid, lower-skilled sector where employees have both much to gain and lose from layoff and reduced hours. For these workers, layoffs and reduced hours are not as welcomed as opposed to their higher-wage counterparts as the “unpredictability of hours and schedules creates financial instability, which in turn can lead to residential instability, changes in child care arrangements and schools for children, and indebtedness to kin and friend to whom workers turn for support. In these instances, rather than needing ‘flexible hours,’ lower-wage workers would benefit from work arrangements such as predictable scheduling, greater advance notice of scheduling, and/or scheduling choice”. (Richman et al. in *Working Flexibility*).

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## Endnotes

<sup>i</sup> The literature cited in this paper was collected in 2009 and the first part of 2010. It mostly represents research undertaken by academic scholars, but also includes reports, journal articles, and data from government agencies and experts who work in government agencies such as the Department of Labor, the Bureau of Labor Statistics and other similar agencies. This review also drew from articles and reports published by research think tanks and worker rights organizations. I also undertook internet searches utilizing key words such as precarious work, contingent work, flexible work, temporary work, contract work, self-contractor, unstable employment, part-time, non-standard, non-regular, economic restructuring, and informalization. This report primarily follows the outline provided by the Japan Institute for Labour Policy and Training titled, “Survey on Non-Regular Employment in Europe and the United States: A Profile.”

<sup>ii</sup> Beginning in October 2009, I undertook a series of interviews with key management from a large electronic machinery company, a large department store, and with an established hotel company. All three establishments were non-union. I also interviewed a union leader who was formerly the President of a hotel union. Most of the interviews were face-to-face, some were undertaken by phone, and some follow-up was undertaken via email. The interviews were not recorded and a monetary incentive was not provided. The interviews varied in length ranging from one hour to several hours and were undertaken at their place of employment. During the interviews, I took detailed notes, including recording the quotes used in this report.

<sup>iii</sup> Even though the majority of studies have found no change in workers’ overall job tenure, reports of corporate downsizing, production streamlining, and increasing use of temporary workers have caused many to question employers’ commitment to long term, stable employment relationships (Polivka, 1996).

<sup>iv</sup> Contingent work was first used by Audrey Freedman in testimony before the Employment and Housing Subcommittee of the Committee on Government Operations, House of Representatives, Congress of the United States.