



# **Non-regular Employment – Issues and Challenges Common to the Major Developed Countries**

– 2011 JILPT Seminar on Non-regular Employment –

**Non-regular Employment – Issues and Challenges  
Common to the Major Developed Countries**

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**The Japan Institute for Labour Policy and Training**

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## Foreword

The Japan Institute for Labour Policy and Training (JILPT) held the International Seminar on Non-regular Employment in Tokyo, on 24<sup>th</sup> – 25<sup>th</sup> of February, 2011. We planned a two-day seminar with academics and experts in the field of labor issues. The main purpose of the Seminar was to take stock of recent developments in the field of non-regular employment in selected industrialized countries—France, Germany, the Netherlands, United Kingdom, United States, and Japan— and to stimulate research activities and public debates through the cross-national discussions and exchange of views.

Although the term “non-regular employee” may be diverse in definition among countries, they are facing numerous problems including wage differential, employment instability and poor working condition, etc. in the tidal wave of severe employment adjustment amid the economic crisis. In order to address these problems, gaining an accurate picture of actual conditions and its precise evaluation based on international comparative research is required. In this respect, the seminar was a great success, with much thought-provoking discussion and insight into the similarities and differences of non-regular employment of each country from a comparative aspect.

This report is a compilation of the papers presented to the workshop. We very much hope that this report will provide useful and up-to-date information and important policy implications.

Lastly, we would like to express our sincere gratitude to the foreign guests at the Seminar, who submitted excellent national papers, for all their cooperation.

May 2011

Koichiro Yamaguchi  
President

The Japan Institute for Labour Policy and Training

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# Introduction

**Yutaka Asao**

The Japan Institute for Labour Policy and Training

The International Seminar on Non-Regular Employment was held over two days, on February 24 and 25, 2011. Researchers on non-regular employment in Japan and five countries, specifically, the United Kingdom, the United States, Germany, France, and the Netherlands, participated in the seminar. In addition, a staff member of the TUAC who is involved in this issue at the OECD and a researcher at the University of London of the UK who was visiting the JILPT during that time also participated in the discussions.

## Purpose of holding the seminar

In Japan, there has been an increase in non-regular employment while regular employment has shown a trend of stagnation and decline for over 15 years. With the rate of non-regular employment already reaching one-third of employment as a whole, people have come to recognize various problems.

With such a social situation and great economic fluctuations after the financial crisis in 2008, the JILPT planned to work on the issue of non-regular employment in a slightly problem-oriented manner. In doing so, the JILPT conducted research and study on the actual conditions of non-regular employment in Japan, and also requested researchers on non-regular employment in each country to summarize the situation in their own countries into a paper, for the purpose of understanding how other developed countries are coping with the issues confronting Japan. Building on this foundation, the JILPT held the seminar in Tokyo in order to further deepen mutual discussion and recognition through presentations, question and answer sessions, and the exchange of opinions with regard to non-regular employment in each country.

## Points of discussion at the seminar

The following points of discussion were presented in the aforementioned papers written at the request of the JILPT and the seminar, on the basis of the matters of concern in Japan.

- (i) How is “non-regular employment” defined in each country?
- (ii) In what fields do people work under the condition of non-regular employment? And, due to what factors does non-regular employment increase or decrease?
- (iii) Do people work under the condition of non-regular employment voluntarily or involuntarily?
- (iv) Is there any discrepancy in terms of treatment between regular employment situations and non-regular employment situations? If so, what factors have caused the discrepancy and what policies have been implemented?
- (v) What is the current situation of non-regular employment in terms of employment stability?

To what extent is it possible for non-regular employees to become regular employees? In addition, what policies have been implemented in this regard? Moreover, what impact has the economic crisis triggered by the Lehman Shock had on non-regular employment?  
(vi) What are the social/policy issues concerning non-regular employment?

Reports on the aforementioned points were submitted by each country. At the seminar, participants presented their reports by country, one after another, conducted a question and answer session, and held discussions. Then an overall discussion was held at the end. The final drafts of the country reports, which were revised in light of these discussions, are included below.

## For reference

I would like to share the “summary” that I put together at the end of the seminar. Although this material perhaps bears closer resemblance to study notes taken during the seminar than a true summary, I hope it will be of some use to readers all the same.

With regard to the definition of “non-regular employment,” non-regular employment is defined as an opposite of “regular employment” in all the countries. It is thus possible to say that the definition is almost common. However, it is interesting that part-time employment is not regarded as “non-regular” employment in the Netherlands. It is also impressive that, under such circumstances, certain types of self-employment are considered non-regular employment in Europe. This is partially attributed to their way of understanding “employment;” however, on the other hand, it should be used as a reference in considering the issue of independent contractors who are highly dependent in reality. It seems that, even if “non-regular” employment is defined as the opposite of “regular” employment, the strength of a “relationship” with a company (employer) exists as an important element of non-regular employment. The issue of “what constitutes regular employment” is worthy of further discussion in Japan and should be addressed before discussing “non-regular” employment. Part-timer, dispatched worker, and fixed-term employee are classifications of non-regular employment common to all six countries. However, I would like to keep an eye on the concept of “contingent work” in the United States.

With regard to fields in which people work under the condition of non-regular employment and factors of increase or decrease in non-regular employment, non-regular employment is frequently observed in the tertiary industry, and the growth of a service economy is the key factor for the increase in non-regular employment. In addition, growing economic fluctuations due to globalization are also an important background element. On the other hand, an increase in non-regular employment meets the needs of employees in part. Incidentally, in Europe, people work under the condition of dispatched work in many fields of manufacturing.

With regard to whether people voluntarily work under the condition of non-regular employment, it is common that quite a lot of people work under such conditions involuntarily. However, this does not apply to part-time employees in the Netherlands. (In the Netherlands, non-regular employment has been increasing in forms other than part-time employment, and it can thus be said that the same issues as those of other countries have also been recognized.)

With regard to the discrepancy in treatment between regular and non-regular employment, equal treatment legislation has been established in Europe and has had a certain impact. However, the discrepancy cannot be resolved by legislation alone. It can be said that employee-employer relationships, and labor union efforts in particular, are important to make

the equal treatment legislation properly engender the intended effects. Regarding this issue, it seems that continued exchange of experience is necessary while taking into account differences in circumstances in each country.

With regard to the stability of non-regular employment and the shift to regular employment, the common view is that stability of non-regular employment will continue to be a big issue during times of economic fluctuation. In addition, the shift from non-regular to regular employment appears to be not so easy in all the countries.

With regard to such aspects as societal/political issues, it is considered that the government, the laborers, and the management need to have a social dialogue and build consensus about a large framework for the employment system, including non-regular employment. An important aspect of non-regular employment, that is, to meet the needs of workers, should be further enhanced. For this purpose, it is necessary to aim at the realization of equilibrium/equal treatment of workers, and to create an employment environment where people can flexibly shift from regular to non-regular employment and vice versa.

# Overview of Non-regular Employment in Japan

**Yutaka Asao**

The Japan Institute for Labour Policy and Training

## Prologue

This paper was written to report on the current conditions of non-regular employment in Japan at the “International Seminar on Non-regular Employment” hosted by the Japan Institute for Labour Policy and Training (JILPT). The purpose of this paper is not for the author to deepen his consideration of the point in question concerning non-regular employment, but rather to provide reference material for a topic of discussion among participants of the seminar.

## 1. Definition of Non-Regular Employment

### *Common Public Conception*

In Japan, the term “Regular Employee” is generally considered as an employee who is hired directly by his/her employer without a predetermined period of employment, and works for scheduled hours.<sup>1</sup> In other words, it can be summarized as “open-ended, fulltime, direct employment.” In addition, as long as these conditions are met, and if no special circumstances are present, this person is covered under public insurance systems including workers’ compensation, unemployment, health care and retirement pension.<sup>2</sup>

Consequently, a “Non-regular Employee” is an employee who does not meet one of the conditions for regular employment. As the three conditions are open-ended, fulltime, and direct employment, in principle, there can be seven different combinations of employment patterns that qualify a worker as a non-regular employee, including “open-ended, full-time, indirect,” “open-ended, part-time, direct,” “open-ended, part-time, indirect,” “fixed-term, full-time, direct,” “fixed-term, full-time, indirect,” “fixed-term, part-time, direct,” and “fixed-term, part-time, indirect.”

### *Classification for Governmental Statistics*

Actual beneficial information provided on the definition of non-regular employment comes from the definition of types and patterns of employment used in government statistics. For example, according to the Employment Status Survey conducted by the Statistics Bureau of the Ministry of Internal Affairs and Communications, employment type can be categorized as “Regular staffs” as well as “Part-time workers,” “Arbeit (temporary workers),”

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<sup>1</sup> However, this image should be regarded as a common conception, as there is no explicit definition of “regular employee” by law.

<sup>2</sup> It should be noted that being covered by public insurance systems does not necessarily mean that the person is a regular employee.

“Dispatched workers from temporary agencies,” “Contract employees,” “Entrusted employees,” and “Other.”<sup>3</sup> Excluding a few minor differences, the status of non-regular employment in Japan is basically described by systematically assigning the above mentioned employment type combinations as follows:

- Part-time workers: both fixed-term and open-ended, part-time, direct employment
- Temporary workers: relatively short fixed-term, fulltime, direct employment
- Dispatched workers from temporary agency: both fixed-term and open-ended, full- or part-time, indirect employment
- Contract employees: relatively long fixed-term, full-time, direct employment
- Entrusted employees: relatively long fixed-term, full-time, direct employment
- Other: None of the above

Here, the differentiation between a contract employee and an entrusted employee becomes an issue. In many cases, contract employees are further defined as employees specifically hired to perform a specialized type of work whereas an entrusted employee is often used to refer to a senior aged worker who is re-hired by his/her last employer after his/her mandatory retirement.<sup>4</sup>

The definition of each category can also vary according to the survey. Such difference is related to the fact that there are two major survey types in the government’s statistical survey on employment, one targeting individuals and households, while the other targeting corporations and business establishments. In the former case, surveys targeting individuals and households are mostly conducted without a substantive definition, with information collected based on “employment type at work or the closest name of the type of your employment” and “job title.” On the contrary, while some surveys targeting corporations and business establishments may be based on “job title,” most surveys are conducted following a substantive definition for each employment type category.

Taking “part-time workers” as an example, in the General Survey on Diversified Types of Employment conducted by the Ministry of Health, Labour and Welfare (MHLW), “part-time workers” are defined as those whose scheduled work hours are short compared to regular employees of the same business establishment.

However, roughly three definitions of “part-time” exist in Japanese statistics. First, the definition may be based on “job title.” Second, the definition may be based on the relatively shorter duration of work hours mentioned above. And lastly, the third type of definition can be used for a worker who works less than 35 hours in a week. This definition retains substitutive attributes of a definition based on a relatively short duration of time.

Although this paper has not reserved space to examine the details of similarities and differences between these three definitions, the following summarizes a few points of note.

- i) In the standard definition of 35-hour workweek, if the category is determined by the actual work hours rather than the predetermined work hours, a part-time worker (defined based on the relatively short work hours) who works over the scheduled hours might not be considered as a part-time worker, while a regular employee who

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<sup>3</sup> In addition to the above employment types, the Employment Status Survey also contains other related categories such as “Temporary employees” (workers under the employment contract with a contract period of at least one month and up to one year) and “Daily employees” (workers under a daily employment contract or a contract period of less than one month).

<sup>4</sup> However, these definitions do not necessarily match actual treatment of employees. There are many full-time workers working a predetermined number of hours but being referred to as part-time workers or similar. In addition, there are many contract employees who perform tasks other than a specialized type of job, as well as entrusted employees who are relatively younger in age.

happens to take a short vacation might be included in the part-time category.

- ii) In the definition based on job title, a broader range of employees other than the part-time workers (based on the relatively short work hours) will be included.<sup>5</sup>

For a long time, in Japan, the word “part-time” was not necessarily taken to mean “shorter work hours,” although the concept is becoming widely understood in recent years. The definition based on the relatively shorter work hours has long been used as well as the definitions based on job title and 35-hour workweek in statistical surveys. In such cases, however, the term “shorter-work-hours worker” was used instead of “part-time worker.”<sup>6</sup> When looking at “part-time worker” in a Japanese statistical survey, it is essential to consider which definition was used in conducting the survey.

### ***Certain Definitions in Legal Writing***

Although there is no legal definition of “regular employment” in Japan, there are a number of legal regulations related to the definition of “non-regular employment.”

First, there is the Act on Improvement, etc. of Employment Management for Part-Time Workers.<sup>7</sup> Article 2 stipulates that “The term “Part-Time Worker” as used in this Act means a worker whose prescribed weekly working hours are shorter than those of ordinary workers employed at the same business establishment (the rest is omitted).”

Second, there is the Act for Securing the Proper Operation of Worker Dispatching Undertakings and Improved Working Conditions for Dispatched Workers. Workers dispatched based on this Act are defined as “dispatched workers.”

Thirdly, there are some legal provisions related to fixed-term contract employment. Article 14 of the Labor Standards Act stipulates “Labor contracts, excluding those without a definite period, and excepting those providing that the period shall be the period necessary for completion of a specified project, shall not be concluded for a period exceeding 3 years (the rest is omitted).” As such, the contract period for fixed-term employment is to be kept under three years (five years, in special cases). However, there is no particular regulation on contract renewal.<sup>8</sup>

### ***Certain Points to Consider***

There are certain points to keep in mind regarding the definition of non-regular employment.

The first relates to indirect employment. As mentioned above, a non-regular employee under indirect employment is considered as a dispatched worker, but dispatched employment is as commonly known an employment type in which a worker enters an employment contract with a temporary agency and assumes a post under the instruction of that agency. In contrary to this, while it was rarely explicitly indicated in government statistics, even in case of employees of business outsourcing companies who work at the place of the outsourcer company, such employees do not follow the instructions of the outsourcer, but are considered “indirectly employed.” In such cases, employees of the outsourcing company are often

<sup>5</sup> Based on a survey conducted by the JILPT in August 2010 (in later discussion), about one third of part-time workers responded that they work over 35 hours in a week.

<sup>6</sup> Actually, the definition based on job title began to be used in periodic statistic surveys that aim to understand current trends in the 1980s, later than other types of definition.

<sup>7</sup> English translations of these legal texts can be viewed on the JILPT website, <http://www.jil.go.jp/english/laborinfo/library/Laws.htm>.

<sup>8</sup> There are some discretionary provisions in the Labor Contract Act that advise against the unnecessary shortening of contract period and repeated renewal.

referred to as “outsourced employees.”<sup>9</sup>

The second point relates to the employment type that lies in between “employed” and “self-employed.” In Japan, non-regular employment is limited to those who are employed. By contrast, in Europe, a certain group of people, even if they fall into the category of self-employed, will explicitly be considered as part of the non-regular employee category. However, it should be noted that in Japan whether someone is employed or not is not judged by his/her status in a contract, but by the actual status of his/her employment. In other words, as long as someone actually works under a command, it is possible to consider that person to be employed, regardless of his/her contractual status. Accordingly, even though there are no explicit legal provisions, in this sense, certain “self-employed workers” can be included in the category of “non-regular employee.”<sup>10</sup>

The third point relates to the fact that the employees who are categorized as regular-employees may be further divided by employment type. For example, employees termed “general office employee” have an upper limit to the rank of the position they can advance to, and in many cases are subject to a different wage scale from that of main career track. This type of difference is recognized as a difference of career track. Meanwhile, in both surveys targeting individuals and business establishments, it is not uncommon that workers with a fixed-term contract to be considered as regular employees. It is also true that the social perception does not always follow its definition.

## **2. Employment Areas and Reasons for Increase/decrease in Non-regular Employment**

### **2.1 Employment areas of non-regular employees**

According to the Employment Status Survey conducted by the Statistics Bureau of the Ministry of Internal Affairs and Communications as mentioned earlier, when looking at the number of employees by employment type (excluding a company’s executives) in the most recent survey year of 2007, of the 53.27 million total employees surveyed, 64.4% were regular employees, and 35.6% were non-regular employees. Among the non-regular employees, 16.6% are part-time workers, followed by *Arbeit* (temporary workers) at 7.7%, contract employees at 4.2%, dispatched workers at 3.0%, entrusted employees at 2.0% and other at 2.0%.

#### ***Industry***

When viewed individually, industries with a high ratio of non-regular employment, in terms of a broader industry classification, include the accommodations, eating and drinking service (69.2%), retail (58.8%), services (not elsewhere classified) (hereinafter referred to as “narrowly-defined services”) (41.7%) as well as medical, health care and welfare (35.9%). Each of these industries exceeds the level seen for all industries combined. A narrower classification of industry, however, reveals that non-regular employment in the various merchandise retail (supermarkets and department stores, etc.) was 71.9%, well above other

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<sup>9</sup> Based on the survey conducted by the JILPT in August 2010, as also mentioned in footnote 5, the percentage of “outsourcee company employees” among all workers surveyed was around 2%. Using this percentage, it is estimated that there are approximately one million outsourcee company employees in Japan.

<sup>10</sup> As seen in the Appendix—Data Section (refer to Table 2), for example, it can also be inferred that many professionals such as “artist, photographer, designer,” and “musician / performing artist” are employed.

industries, and this figure for food manufacturing was high at 51.3%, while it does not stand out in the manufacturing industry under the broader industry classification.

It can be said that these industries that employ a large percentage of non-regular employees are, in general, industries that employ a large percentage of part-time workers. On the other hand, industries with a relatively large percentage of contract employees include information and communication (7.9%), real estate (7.4%) and narrowly-defined services (6.4%), while industries that employ a relatively large percentage of dispatched workers include financing/insurance (6.6%), manufacturing (5.7%) and information and communication (4.6%).

Changing perspectives to examine the employment type composition of each industry reveals the following. Part-time workers were most predominant in the retail industry (24.6%), followed by manufacturing (15.4%), medical, health care and welfare (14.6%) and narrowly-defined services (13.8%), while for contract employees this included narrowly-defined services (18.3%), manufacturing (15.9%) and retail (11.1%). Dispatched workers were found most in manufacturing (36.1%), narrowly-defined services (9.2%), financing / insurance (6.6%) and information and communication (5.9%). (Refer to Table 1 in the Data Section.)

As just described, a large percentage of non-regular employees can be found in tertiary industries. With the growing trend of service economy, it may be said the increase in the weight of tertiary industries in employment is one of the greatest factors increasing the weight of non-regular employment in Japan. Yet, today the weight of non-regular employment is growing nationwide, regardless of industry.

### **Occupation**

Let us now examine similar data by occupations. When viewed by broader classification, occupations with large percentages of non-regular employees (excluding agricultural, forestry and fisheries workers), were service workers (61.0%), production process and related workers (37.9%), clerical workers (34.4%) and sales workers (33.1%). When examining classifications one level down, occupations with large percentages of non-regular employees also included other labor workers (72.7%), outdoor service workers (75.6%), food manufacturing workers (64.1%), transport labor workers (53.2%) and office appliance operators (50.5%). Other specialized and technical workers (60.7%) and musicians and stage designers (55.2%), which belong to the broader classification of specialized and technical workers, were also occupations with large percentages of non-regular employment.

In general, it can be said that these occupations retain a large ratio of part-time workers. Among these, occupations with a relatively large percentage of contract employees were, from a broader classification basis, transport and communication workers (6.9%) and security workers (5.8%). Mid-level classifications included artist and performer occupations belonging to the broader specialized and technical workers classification such as musicians and stage designers (15.1%), followed by outdoor service workers (9.3%) and office appliance operators (9.1%). In addition, occupations with relatively large portion of dispatched workers included office appliance operators (19.5%) and electrical machinery assembly and repair workers (11.9%).

Changing perspectives to examine the employment type composition of each occupation reveals the following. Part-time workers were found most prominently in the occupations of production process and related workers (32.0%), clerical workers (23.0%) and sales workers (11.3%). These same three occupations also showed to have large numbers of contract

employees as well (25.8%, 24.4% and 12.8% respectively), but there was no large disparity between the percentages of production process and related workers and clerical workers compared to part-time workers. Dispatched workers were concentrated in the two occupations of production process and related workers (39.5%) and clerical workers (36.6%). In addition, part-time workers made up 7.7%, contract employees 12.4% and dispatched workers 4.7% of the specialized and technical occupation, relatively low percentage compared to regular employees (18.7%). (Refer to Table 2 in Appendix.)

### ***Changes between 2002 and 2007***

According to the Employment Status Survey, changes between 2002 and 2007, in other words, during the period of unperceivable long-term economic recovery in Japan prior to the global economic downturn caused by the financial crisis, amid the growth of non-regular employment, the percentage of dispatched workers increased dramatically (changing from 1.4% to 3.0%), while the increase in contract employee/entrusted worker was also relatively prominent (changing from 4.9% to 6.2%).

The percentage of dispatched workers has increased in almost all industries and occupations, in particular in the manufacturing industry among others. Furthermore, the biggest jump was seen in the “machinery equipment manufacturing” industry (changing from 2.7% to 8.1%); while in terms of occupation, the increase of “dispatched workers” in the “electrical machinery assembly and repair worker” category (changing from 4.0% to 11.9%) was also very prominent.

The trend seen after the financial crisis will be discussed in Chapter 5, which covers employment stability.

### ***Job Duties***

In addition to examining non-regular employment by industry and occupation as discussed above, it is necessary to look into the attributes of job duties assigned at work. As part of a research project to study non-regular employment, a survey conducted by the JILPT (“Survey on the Current Conditions of Employment of Workers with Diverse Employment Types” [Business Survey/Employee Survey])<sup>11</sup> in August 2010 reveals that while regular employees assume a wide range of job duties from supportive roles and routine duties to management duties, the majority of non-regular employees were assigned to take on routine, supportive roles (Table 1).

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<sup>11</sup> Conducted for 10,000 business establishments and employees (both regular and non-regular) (10 employees per business establishment) working there. As with other JILPT research studies covering companies and business establishments, the response rate is lower than government statistical surveys, but responses were received from 1,610 business establishments and 11,010 employees. The main results of the study were nearly on par with government statistics, and are considered fully valid for analytical purposes.

**Table 1 Job Duties Categorized by Department (Industry Total/Offices with Relevant Department)**

	Total	Administrative duties	Project planning	Highly specialized duties	Decision-making duties	Routine duties	Supportive role	Other duties	(%) No relevant employment type /no response
<b>Clerical and Planning Department</b>									
Regular employees	100.0	89.8	62.1	41.9	71.3	70.2	42.5	29.5	4.9
Open-ended/Fixed-term part-time workers	100.0	3.5	1.2	2.1	3.2	26.2	32.6	11.8	59.2
Fixed-term employees	100.0	4.6	3.4	4.0	5.0	19.4	17.2	7.8	74.1
Dispatched workers	100.0	1.6	0.6	2.8	1.4	17.1	19.2	5.0	74.2
<b>Field Work Department</b>									
Regular employees	100.0	74.5	38.8	51.9	65.2	69.3	42.3	24.8	10.0
Open-ended/Fixed-term part-time workers	100.0	2.8	1.1	6.3	6.3	40.4	39.1	13.2	47.4
Fixed-term employees	100.0	4.2	1.7	7.0	8.3	30.1	24.5	8.5	63.7
Dispatched workers	100.0	1.1	0.5	1.8	2.2	19.5	17.2	4.8	74.4
<b>Sales and Marketing Department</b>									
Regular employees	100.0	85.2	63.7	42.6	75.8	66.9	39.5	26.3	6.3
Open-ended/Fixed-term part-time workers	100.0	2.8	1.5	1.4	2.8	22.6	24.8	7.8	69.9
Fixed-term employees	100.0	3.7	3.1	2.9	4.5	15.3	13.4	5.9	79.4
Dispatched workers	100.0	0.6	0.4	1.2	1.3	12.4	13.4	2.2	82.5

Source: JILPT's "Survey on the Current Conditions of Employment of Workers with Diverse Employment Type" (Establishment Survey) (Implemented in 2010).

## 2.2 Characteristics of non-regular employee attributes

Let us briefly discuss the characteristics of non-regular employee attributes. Figure 1 provides the ratio of female workers for each employment type as of the year 2007. While females account for only 30.7% of all regular employees in general, they make up a larger portion of non-regular employees. For example, 89.7% of all part-time workers were female, while 62.1% of dispatched workers were female, with more females than males in the proportion of two to one. On the other hand, contract employees are split relatively evenly (48.4% female), and more males are employed as entrusted workers because employment in this type tends to consist of the rehiring of older workers who were once regular employees.

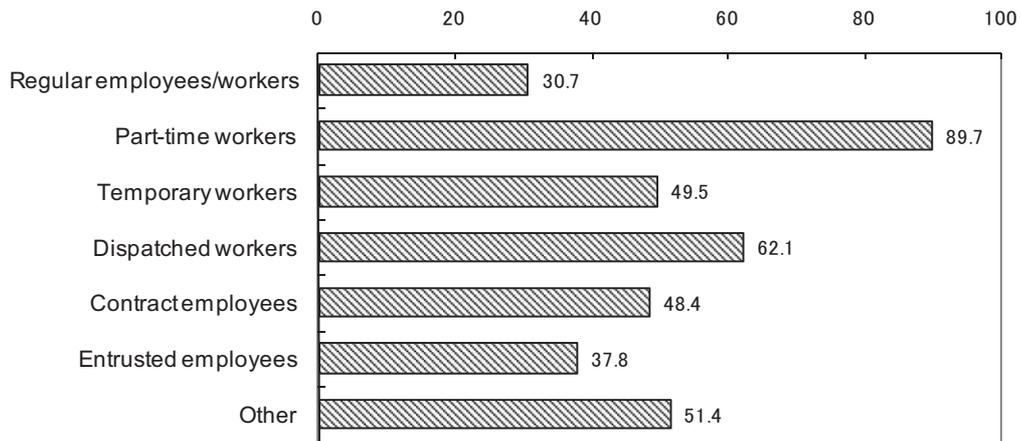
In addition, when viewing changes that have occurred since the year 2002, while the ratio of females working as regular employees has increased somewhat (changing from 29.4% to 30.7%), in many cases the ratio of females working as non-regular employees has declined. Specifically, this ratio has decreased by 10 percentage points (changing from 71.8% to 62.1%) for dispatched workers. This broad change can be attributed to the lifting of the ban on dispatched workers in the manufacturing industry in 2006.

Figure 2-1 and Figure 2-2 examine the composition of employment type by gender and age group. For males, while non-regular employment accounts for a rather large portion during the period of transition from school to work (under the age of 30) and after reaching the mandatory retirement age (55 to 64), more than 90% of males are employed as regular employees aged in between. On the other hand, for females the ratio of regular employees is highest (slightly more than half) after graduating from university and finding employment, and declines in subsequent age groups, while the ratio of part-time workers increases. Also, the large percentage of female dispatched workers under the age of 45 begins to decrease after the age of 45.<sup>12</sup>

<sup>12</sup> Viewing the percentage of female dispatched workers in smaller 5-year age groups shows that the peak occurs between the age of 30 and 34 (7.7%). Figures gradually decline in subsequent age groups at 6.2% for ages 35 to 39, 4.4% for ages 40 to 44 and 2.9% for ages 45 to 49.

As is well known, the underlying trend behind these discrepancies in gender and age can be attributed to the relation with responsibilities in the home.

**Figure 1 Percentage of Female Employees by Employment Format (2007)**



Source: Employment Status Survey from the Statistics Bureau of the Ministry of Internal Affairs and Communications.  
 Note: The figures exclude executive officers (the same goes hereafter).

**Figure 2-1 Employment Format Composition by Age (Male Employees)**



**Figure 2-2 Employment Type Composition by Age (Female Employees)**



## 2.3 Background to the increase in non-regular employment

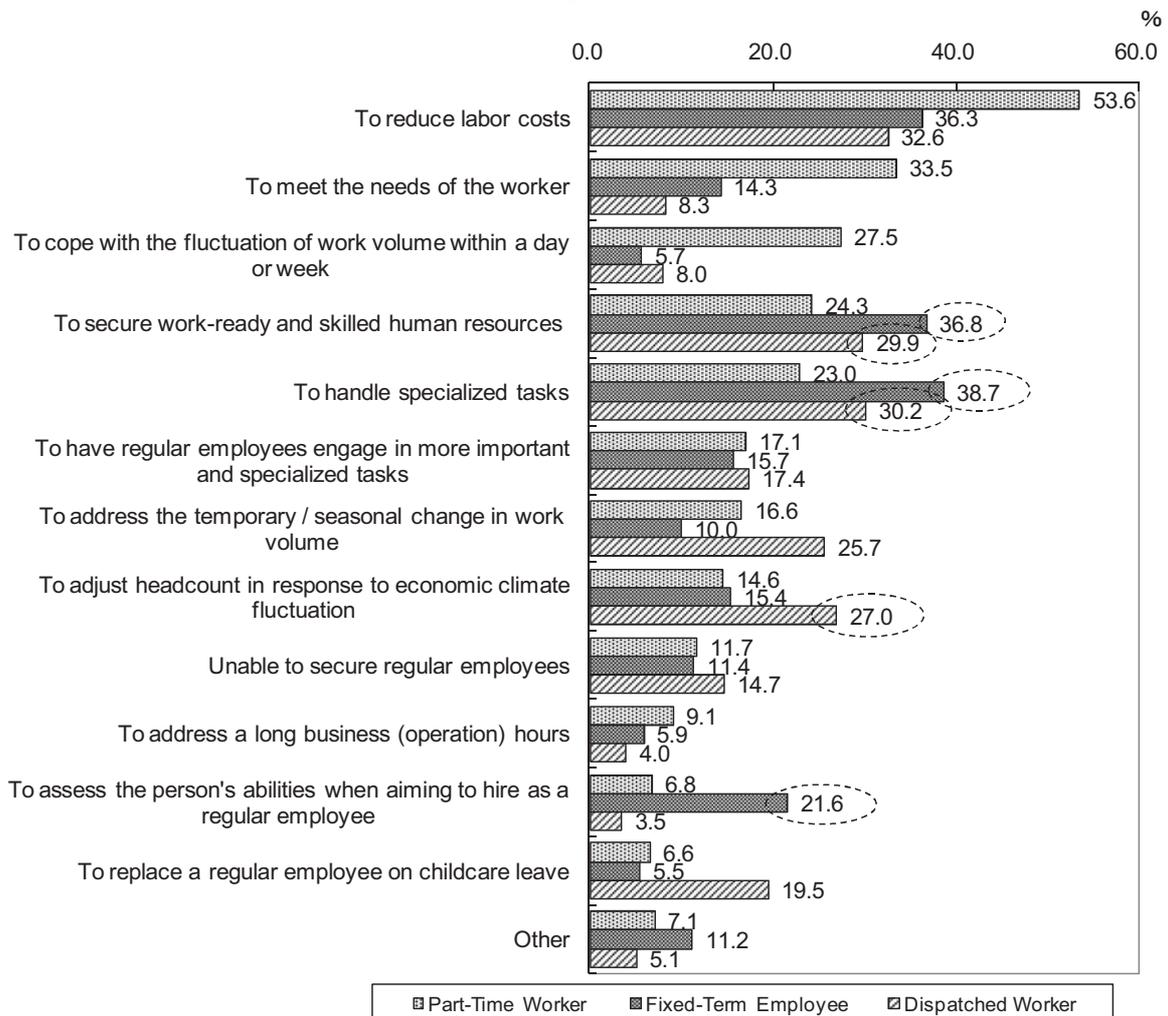
### (1) Reasons of Business Establishments utilizing Non-Regular Employment

Next, let us examine the increase in non-regular employees by considering the reasons why business establishments utilize non-regular employment. The following data is from the aforementioned JILPT survey (hereinafter, “D-Survey”). Also, data will primarily be analyzed for three employment types: part-time workers, fixed-term employees (fixed-term, full-time employees) and dispatched workers.

Figure 3 illustrates reasons for business establishments to utilize non-regular employment. The most common reason for hiring part-time workers included “To reduce labor costs” (53.6%), followed by “To meet the needs of the worker” (33.5%) and “To cope with fluctuations of work volume within a day or week.” In comparison, for contract employees, the highest percentage (38.7%) of business establishments responded that they hire them “To handle specialized tasks,” followed by “To secure work-ready and skilled human resources” at 36.8%, and 36.3% cited “To reduce labor costs.” In addition, compared to other employment types, a relatively large percentage of business establishments (21.6%) also responded “To assess the person’s abilities in case of hiring him/her as a regular employee.” “To reduce labor costs” at 32.6% was the highest reason for business establishments to hire dispatched workers, followed by nearly a tie for second between “To handle specialized tasks” (30.2%) and “To secure work-ready and skilled human resources” (29.9%). In addition, compared to other employment types, a relatively large percentage of business establishments also responded that they hire dispatched employees “To address the temporary/seasonal change in work volume” (27.0%) and “To substitute a regular employee on childcare leave” (19.5%).

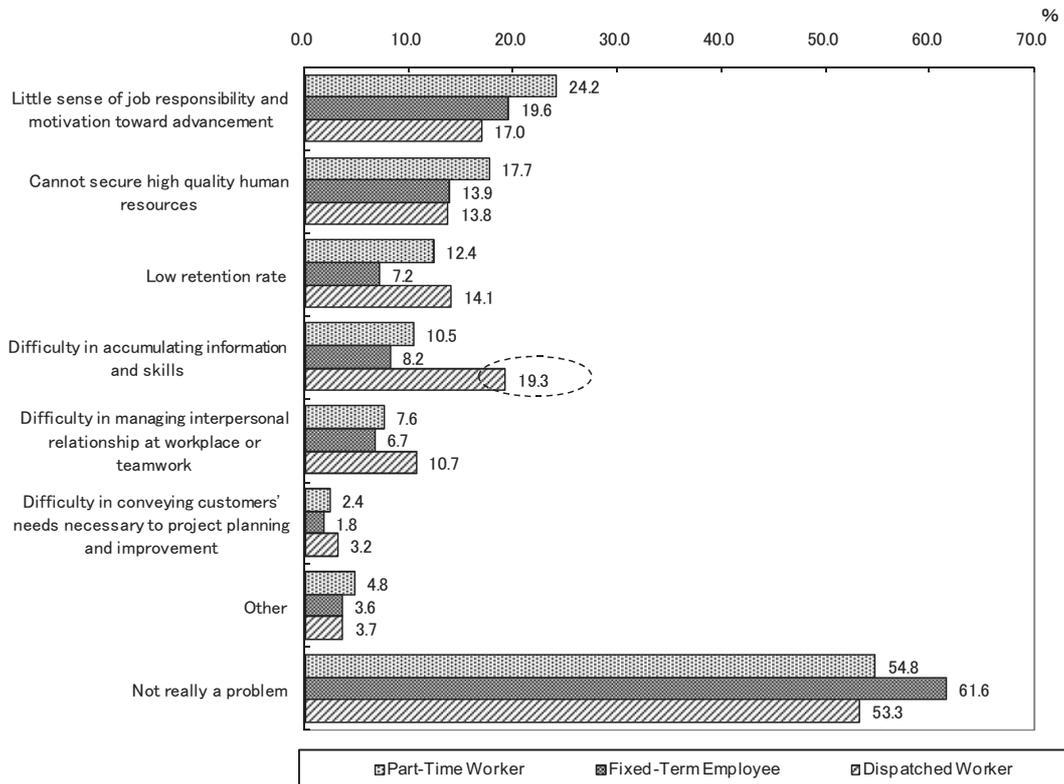
Without a doubt, to reduce labor costs is one of the principle reasons for a business establishment to utilize non-regular employment. This is particularly true for part-time workers. However, the same was not necessarily implied with the same emphasis for contract employees and dispatched workers. Additionally, another factor for the use of part-time workers was to match the needs of the worker.

**Figure 3 Reasons for Preferring a Certain Employment Type Over Others (Multiple Answers)**



Source: JILPT's "Survey on the Current Conditions of Employment of Workers with Diverse Employment Type" (Establishment Survey) (Implemented in 2010).

**Figure 4 Problems in Hiring And Using Non-regular Employees from the Business Perspective (Multiple Answers)**



Source: JILPT's "Survey on the Current Conditions of Employment of Workers with Diverse Employment Type" (Establishment Survey) (Implemented in 2010).

On the other hand, certain issues with the utilization of non-regular employment have also been recognized. More than half of all business establishments responded “Not really a problem,” yet, most often responded was “Little sense of job responsibility and motivation toward advancement,” followed by “Cannot secure high quality human resources” and “low retention rate.” In addition, as for dispatched workers, compared to part-time workers and contract employees, a larger percentage of business establishments cited “Difficulty in accumulating information and skills” and “Difficulty in managing interpersonal relationship at workplace or teamwork” (Figure 4).<sup>13</sup>

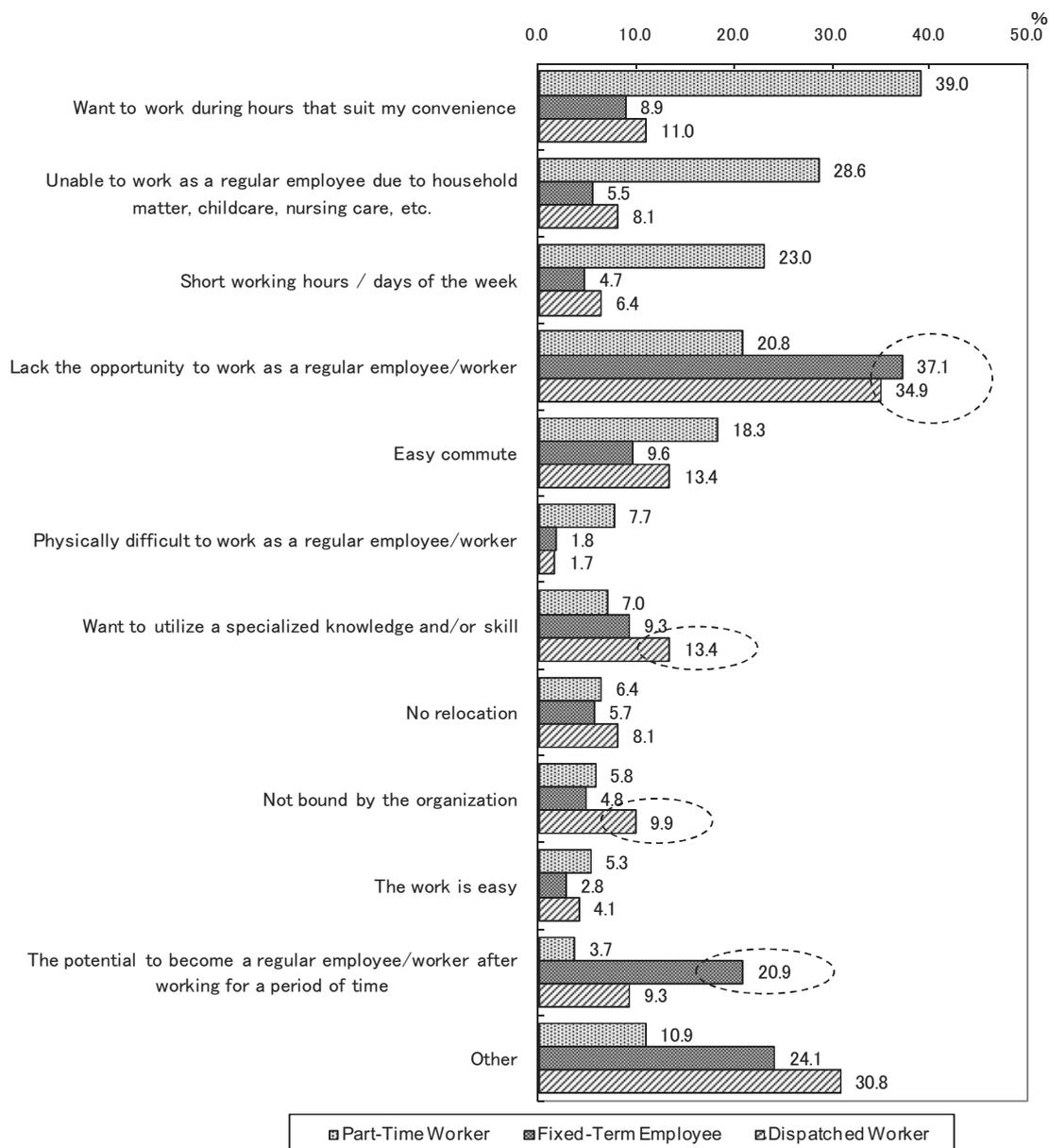
**(2) Reasons of Workers Choosing a Non-regular Employment Type**

Figure 5 shows the reasons why non-regular employees chose a non-regular employment type. The reasons vary greatly among part-time workers, contract employees and dispatched workers. For part-time workers, the reasons were “Want to work during hours that suit my convenience” (39.0%), “Unable to work as a regular employee due to household matter, childcare, nursing care, etc.” (28.6%) and “Short working hours / days of the week is suitable” (23.0%). The main reasons tended to focus on working hours and work-life balance. In

<sup>13</sup> Although this paper does not reserve space for further discussion, strong distinctions were also seen between industries in terms of reasons for utilizing non-regular employment and related issues. For those interested, please refer to Table 4 and Table 5 in the accompanying Data Section.

contrast, for contract employees and dispatched workers, “Lack the opportunity to work as a regular employee/worker” was the largest response at 37.1% and 34.9% respectively, which was much higher than other responses. Other than this, receiving a relatively large number of responses among contract employees was “The potential to become a regular employee/worker after working for a certain period of time” (20.9%), while for dispatched workers this was “Want to utilize a specialized knowledge and/or skill” (13.4%) and “Not bound by the organization” (9.9%).

**Figure 5 Reasons for Non-Regular Employees to Choose the Current Work Style (Multiple Answers)**



Source: JILPT's "Survey on the Current Conditions of Employment of Workers with Diverse Employment Type" (Employee Survey) (Implemented in 2010).

### (3) A Brief Summary on the Background to the Increase in Non-Regular Employment

While issues surrounding non-regular employment in post-war Japan were mostly related to migrant workers and day laborers, since around 1970 the issues of part-time workers have gradually attracted public attention. Initially this trend evolved slowly from a combination of changes in both the workforce and business establishments amidst the move toward a service economy and expansion of tertiary industries. While business establishments saw fluctuations in their daily or weekly work volume and needed to provide more customized services, the differentiation of jobs that required fewer skills was made possible in the so-called distribution revolution. Meanwhile, women, in particular housewives, began entering the labor market.

The explanation behind the momentum to this trend in Japan can be found in Japan's asset-inflated bubble economy and its collapse in mid-1980s and labor law reform which took place during that time. The bubble economy caused a temporary over tightening of the labor supply-demand balance, and brought about a trend in which youth no longer needed to be employed following the "cookie cutter type of regular employment," and this continued well after the bursting of the bubble economy. Meanwhile, as the bubble burst, and a long economic recession ensued, the demand for regular employees by businesses fell by a rather significant amount, and before long the economy drew the attention of companies to utilize the labor force through non-regular employment to every extent possible. As this took place during the same period when the Worker Dispatching Act and the Equal Employment Opportunity Law were enacted and promulgated, businesses began adopting a human resource management policy to hire workers following an explicitly indicated employment track. This climate of supply and demand in the labor market that "unfortunately" coincided with revisions to labor laws created an unstoppable torrent for the non-regular employment type to be adopted more widespread in Japan, which not only includes part-time workers, but has been expanded to include other full-time forms of non-regular employment such as contract employees and dispatched workers to date.

### 3. A Matter of Voluntary Employment versus Involuntary Employment

Whether someone chooses an employment type voluntarily or involuntarily is one of the arguments concerning non-regular employment. Although being dictated by family duties to choose a certain type can also be considered as a "forced decision," for the discussion of this paper, "the lack of opportunity to work as a regular employee" is considered as an involuntary choice.

#### *Looking at the Reason for Choosing One's Current Employment Type*

Data on the reasons why workers choose their current employment type are given in Figure 5 shown above. Ratio of involuntary employment in this aspect for part-time workers accounts for 20.8%, which was less than that of contract employees at 37.1% and dispatched workers at 34.9%.

Table 2 further examines this data by gender and age group. While part-time workers only make up a relatively small part, the ratio is high among males in their 40s and 50s. As for contract employees, the involuntary employment rate is high for female workers up to their 40s, while in the dispatched worker category the rate is relatively high for female workers in

their 30s. Although fixed-term employees and dispatched workers may have the potential to become employed as a “full-time” worker, the above data indicates a particular lack of opportunity for these groups of workers to become hired as a regular employee.

**Table 2 Ratio of Involuntary Non-Regular Employees by Employment Type**

	Part-Time Worker		Fixed-Term Employee		Dispatched Worker	
	Male	Female	Male	Female	Male	Female
Total	20.2	20.8	28.6	42.3	21.1	38.8
Age 29 and under	28.6	22.2	35.0	46.3	28.6	33.3
Age 30-39	23.8	17.2	29.6	46.8	27.3	44.6
Age 40-49	40.0	23.5	35.9	45.7	22.2	30.3
Age 50-59	41.2	23.5	42.6	32.7	33.3	71.4
Age 60 and over	10.0	13.2	10.7	11.5	0.0	0.0

Source: JILPT's "Survey on the Current Conditions of Employment of Workers with Diverse Employment Type" (Employee Survey) (Implemented in 2011).

Note: Percentage of "Lack the opportunity to work as a regular employee" as reasons for choosing the present employment type.

### ***From the Perspective of Desire for a Different Future Employment Type***

The involuntary non-regular employment type related to the insufficient opportunity for regular employment can be understood from one other perspective. That is, to inquire into the desire of people who are currently employed as a non-regular employee on how they wish to be employed in the future. Table 3 shows related data categorized by gender and age. Regardless of whether the person desires to work at their current company or another company, the percentage of those desiring a different employment type than their current one (most non-regular employees desire to become a regular employee) by gender is 20.6% for males and 25.1% for females among part-time workers, 33.6% and 41.5% among fixed-term employees, and 26.4% and 53.7% among dispatched workers respectively. A further look at this data by age suggests that more people among the relatively younger generation desire for a change in their current employment type. It is believed that this data includes a large number of workers who did not enter the workforce as a regular employee right after graduation, but have been working as a non-regular employee continuously.

Moreover, about 15-17% of those who are currently working as a regular employee want to see a change in their employment type. Even though the rate of desire for an employment type change among part-time workers is higher at 20 - 25%, the difference is certainly not that large. Overall, it can be summarized that the involuntary rate is relatively low for part-time workers, and quite high for females who are fixed-term employees or dispatched workers. However, the degree of severity of each individual case should be considered separate from this conclusion.

**Table 3 Future Employment Desire (Willingness to Continue the Current Employment Type, etc.)**

(%)

		Male						Female				
		Total	Want to continue working at the present company, following the same status	Want to work at another company, following the same status	Want to work at the present company, following another status	Want to work at another company, following another status	No response	Want to continue working at the present company, following the same status	Want to work at another company, following the same status	Want to work at the present company, following the same status	Want to work at another company, following the same status	No response
Regular employees/workers	Total	100.0	76.1	5.6	5.2	10.7	2.4	70.7	8.2	4.9	12.4	3.8
	Age 29 and under	100.0	68.9	9.4	5.7	14.8	1.1	60.4	12.4	4.4	19.8	2.9
	Age 30-39	100.0	74.4	5.8	5.7	12.5	1.6	70.6	8.0	5.3	13.9	2.2
	Age 40-49	100.0	79.8	4.1	5.1	8.9	2.1	77.7	7.7	4.4	7.5	2.7
	Age 50-59	100.0	79.8	4.5	4.9	7.3	3.5	79.1	3.4	5.6	3.9	8.1
	Age 60 and over	100.0	83.8	1.8	0.9	2.7	10.8	81.6	2.0	4.1	4.1	8.2
	No response	100.0	61.7	8.5	0.0	19.1	10.6	51.4	2.9	8.6	20.0	17.1
Part-time workers	Total	100.0	64.5	3.5	7.9	12.7	11.4	63.8	4.6	10.1	15.1	6.4
	Age 29 and under	100.0	28.6	0.0	38.1	28.6	4.8	45.9	5.9	13.3	28.9	5.9
	Age 30-39	100.0	38.1	4.8	23.8	33.3	0.0	56.3	6.1	13.6	21.9	2.0
	Age 40-49	100.0	50.0	0.0	10.0	35.0	5.0	59.9	6.0	12.5	15.9	5.8
	Age 50-59	100.0	76.5	2.9	5.9	5.9	8.8	73.8	2.6	7.3	8.9	7.3
	Age 60 and over	100.0	73.8	4.6	0.8	4.6	16.2	82.8	1.0	1.5	2.0	12.7
	No response	100.0	50.0	0.0	0.0	50.0	0.0	45.9	2.7	2.7	27.0	21.6
Fixed-Term workers	Total	100.0	55.1	4.1	17.4	16.2	7.2	48.8	6.0	21.2	20.3	3.7
	Age 29 and under	100.0	41.3	6.3	25.0	25.0	2.5	44.9	4.8	23.1	25.2	2.0
	Age 30-39	100.0	50.0	3.1	28.6	17.3	1.0	40.7	6.9	26.9	23.1	2.3
	Age 40-49	100.0	53.1	1.6	20.3	21.9	3.1	51.0	7.3	20.5	17.9	3.3
	Age 50-59	100.0	44.3	4.9	16.4	19.7	14.8	65.3	6.1	11.2	12.2	5.1
	Age 60 and over	100.0	77.7	4.5	0.9	3.6	13.4	73.1	0.0	7.7	11.5	7.7
	No response	100.0	25.0	0.0	25.0	25.0	25.0	25.0	0.0	16.7	25.0	33.3
Dispatched Workers	Total	100.0	60.5	10.5	13.2	13.2	2.6	36.6	6.0	22.4	31.3	3.7
	Age 29 and under	100.0	42.9	14.3	42.9	0.0	0.0	40.0	3.3	20.0	33.3	3.3
	Age 30-39	100.0	36.4	9.1	18.2	27.3	9.1	25.0	7.1	25.0	39.3	3.6
	Age 40-49	100.0	55.6	22.2	0.0	22.2	0.0	48.5	6.1	24.2	18.2	3.0
	Age 50-59	100.0	100.0	0.0	0.0	0.0	0.0	71.4	0.0	14.3	14.3	0.0
	Age 60 and over	100.0	100.0	0.0	0.0	0.0	0.0	50.0	0.0	0.0	0.0	50.0
	No response							16.7	16.7	16.7	50.0	0.0

Source: JILPT's "Survey on the Current Conditions of Employment of Workers with Diverse Employment Type" (Employee Survey) (Implemented in 2010).

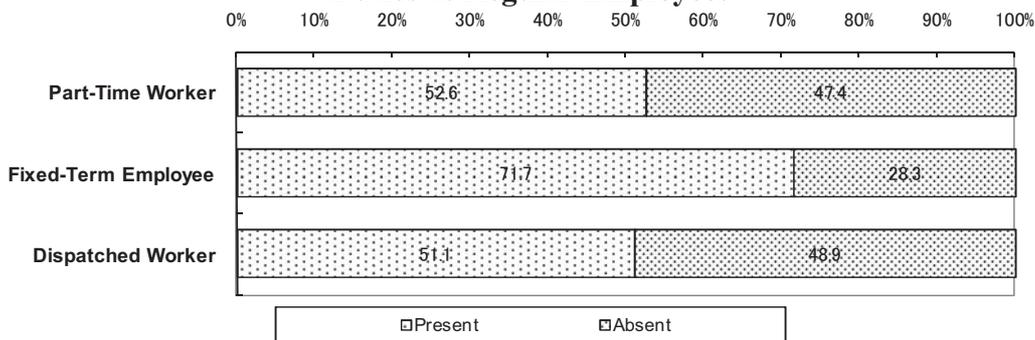
## 4. Equal Treatment

Another argument concerning non-regular employment is the issue of disparity on working condition between regular and non-regular employees. In Japan, this issue has received particular public interest in recent years. Here, a number of different sets of data from the D-Survey will be discussed.

### 4.1 Wage differential as perceived by business establishments

When various business establishments were asked whether there were non-regular employees who perform the same job duties as regular employees, of business establishments with different categorizes of non-regular employees, part-time workers made up 52.6%, fixed-term employees 71.7% and dispatched workers 51.1% (Figure 6).

**Figure 6 Presence / Absence of Non-Regular Employees who Perform the Same Job Duties as Regular Employees**

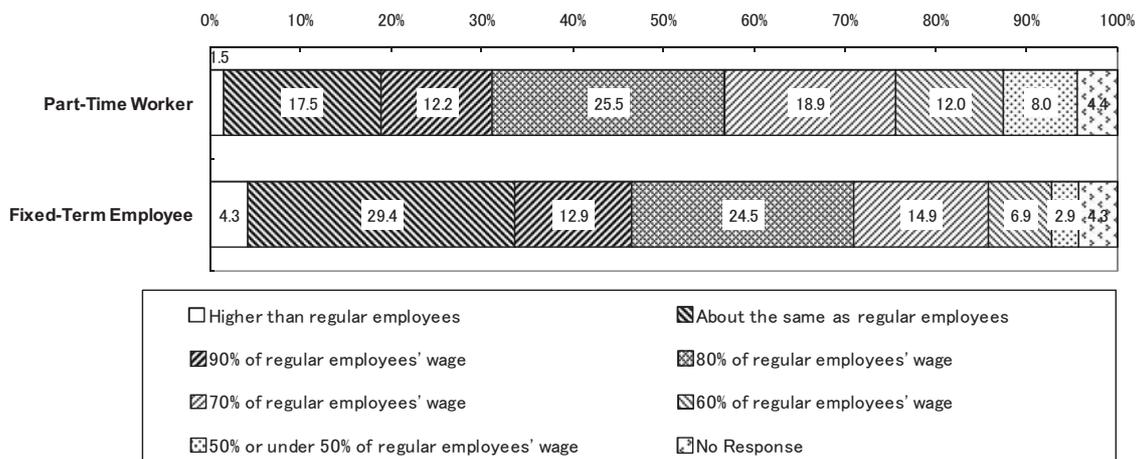


Source: JILPT's "Survey on the Current Conditions of Employment of Workers with Diverse Employment Type" (Establishment Survey) (Implemented in 2010).

Note: The above excludes offices that do not have the relevant employment type and those without a response.

Looking at the results of a question asked on the wage standard for a non-regular employee performing the same duties as regular employees, 17.5% of business establishments offer “About the same as regular employees” for part-time workers and 29.4% for fixed-term employees, In most cases non-regular employees receive less pay than their regular counterparts. The highest percentage of (about one out of four) business establishments set a pay scale for non-regular employees at “80% of regular employees’ wage” for both part-time workers and fixed-term employees, while average pay ranges from 60% to 90% of a regular employee’s pay (Figure 7).

**Figure 7 Standard Pay Scale Compared to Regular Employees with the Same Job Duties (hourly basis)**  
**—Companies with non-regular employees performing the same job duties as regular-employees—**

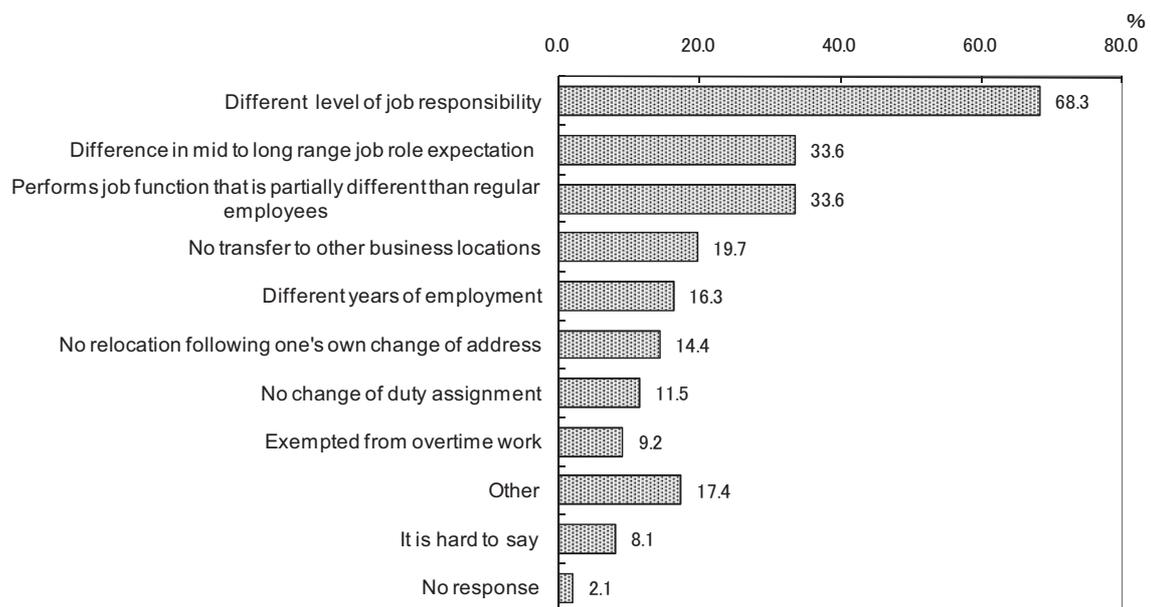


Source: JILPT's "Survey on the Current Conditions of Employment of Workers with Diverse Employment Type" (Establishment Survey) (Implemented in 2010).

### *Wage Differential - Reasons for the Difference as Indicated by Business Establishments*

Business establishments that offer a lower wage to non-regular employees who perform the same duties were asked for their reasoning. A decidedly large percentage of companies answered “Different level of job responsibility” (68.3%), followed by the reason of “Difference in mid to long range job role expectations” (33.6%), “Performs job function that is partially different than regular employees” (33.6%), and so on (Figure 8).

**Figure 8 Reasons for the Discrepancy in Wages between Regular and Non-Regular Employees from the Company's Perspective (Multiple Answers)  
—Companies whose non-regular employees have a lower wage standard than regular employees—**



Source: JILPT's "Survey on the Current Conditions of Employment of Workers with Diverse Employment Type" (Establishment Survey) (Implemented in 2010).

## 4.2 Wage differential as perceived by employees

Next, let us review related data from the employee side of the D-Survey. First, we examined the response of regular employees to the question on whether there are any other people at the workplace who perform the same duties but under a different employment type. As a result, 38.2% of regular employees responded yes to this question, with 9.5% answering that their non-regular counterpart is a part-time worker, 6.4% a fixed-term employee, and 3.9% a dispatched worker.<sup>14</sup>

<sup>14</sup> When comparing these rates with one another, however, it is important to take heed that only a small percentage of fixed-term employees and dispatched workers as opposed to 20% of part-time workers make up the entire workforce. That is, it should not be concluded that non-regular employees performing the same job as regular employees are mostly part-time workers.

**Table 4 Presence of People of Different Employment Type and Work Style with the Same Job Content in the Workplace****1. Regular employee/worker**

	Total	Present	Employment Type of Counterpart			Absent	No Response
			Part-Time Worker	Fixed-Term Employee	Dispatched Worker		
Total of regular employee/worker	100.0	38.2	9.5	6.4	3.9	59.7	2.1

**2. Non-Regular employee/worker**

	Total	Present	Regular Employees	Absent	No Response
Fixed-Term Employee	100.0	71.8	48.8	26.4	1.8
Dispatched Worker	100.0	58.1	40.1	40.1	1.7

Source: JILPT's "Survey on the Current Conditions of Employment of Workers with Diverse Employment Type" (Employee Survey) (Implemented in 2010).

On the other hand, 60-70% of non-regular employees responded yes to the same question, with 35.1% part-time workers, 48.8% fixed-term employees, and 40.1% dispatched workers answering that their counterpart is a regular employee (Table 4).

Next, let us examine from the perspectives of regular employees and non-regular employees on the topic of unequal treatment.

**(1) Wage Differential as Perceived by Regular Employees**

From the perspective of regular employees, a large number answered "Don't know" to the question whether their wage is higher than their non-regular counterpart. While a little more than half rated their wage as higher than part-time workers and fixed-term employees, only 39.0% feel their wage is higher than dispatched workers. Clearly, only a small percentage of regular employees feel their wage is lower. Most feel there is a 10-30% discrepancy in their wages (Table 5-1).

When asked about the wage difference and whether they felt this was reasonable, for regular employees who feel their own wage is higher, 60% rated such a difference as "Reasonable," and only a small percentage of them rated this as "Unreasonable." Conversely, although a large number of regular employees who feel their own wage is lower also felt the difference as "Reasonable," about 25% (their non-regular counterpart being part-time worker or dispatched worker) to 40% (fixed-term employee counterpart) felt the difference was "Unreasonable" (Table 5-2).

**Table 5-1 Responses of Regular Employees / Wage Comparison with Non-Regular Employees with the Same Job Content (hourly basis)**

Employment Type of Counterpart	Total	Higher	Almost the Same	About 10% Less	About 20% Less	About 30% Less	About 40% Less	Less than 50%	Don't Know	No Response
Fixed-Term Employee	100.0	50.9	12.6	1.8	3.0	1.3	0.5	0.5	28.5	1.0
Dispatched Worker	100.0	39.0	7.7	0.8	0.4	2.4	0.8	0.8	46.3	1.6

Source: JILPT's "Survey on the Current Conditions of Employment of Workers with Diverse Employment Type" (Employee Survey) (Implemented in 2010).

Note: Response of regular employees who said there are non-regular employees with the same job content in their workplace.

**Table 5-2 Responses of Regular Employees about the Fairness of Wage Difference Between Regular and Non-Regular Employees**

		(%)				
Employment Type	Difference	Total	It Is Fair	Cannot Tell	Don't Think It Is Fair	No Response
Part-Time Worker	Mine is Higher	100.0	62.2	31.9	4.6	1.2
	Almost the Same	100.0	18.4	52.6	26.3	2.6
	Mine is Lower	100.0	52.9	20.6	26.5	0.0
Fixed-Term Employee	Mine is Higher	100.0	56.4	33.7	8.9	1.0
	Almost the Same	100.0	22.0	52.0	22.0	4.0
	Mine is Lower	100.0	25.0	35.7	39.3	0.0
Dispatched Worker	Mine is Higher	100.0	59.4	34.4	6.3	0.0
	Almost the Same	100.0	36.8	57.9	5.3	0.0
	Mine is Lower	100.0	38.5	38.5	23.1	0.0

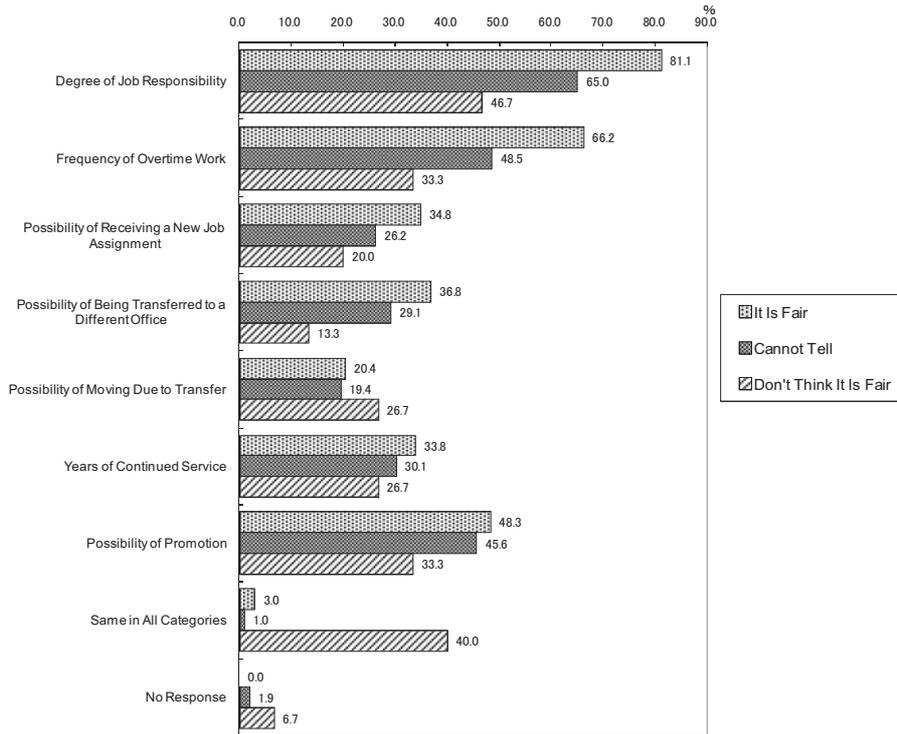
Source: JILPT's "Survey on the Current Conditions of Employment of Workers with Diverse Employment Type" (Employee Survey) (Implemented in 2010).

### ***Difference in Wage and Employment Conditions***

We asked regular employees who responded that they receive a higher wage than employees of other employment types what are the differences of employment conditions as the reason why they believe the wage difference was reasonable. As the result, the ratio of those who answered "Think it is reasonable" was much higher than those who responded "Do not think it is reasonable," for "Job responsibility" and "Frequency of overtime work" for all the employment types. For part-time workers and fixed-term employees, in addition to these conditions "Possibility of changing to another job," "Possibility of changing to another business establishment" and "Consecutive years of work" were also selected as the difference of employment conditions. For dispatched workers, however, this type of trend is not observed for these conditions. Additionally, among regular employees who responded "The same" to either multiple choice employment conditions, it can be said this was a factor for the response "Do not think it is reasonable" (Figures 9-1, 9-2 and 9-3).

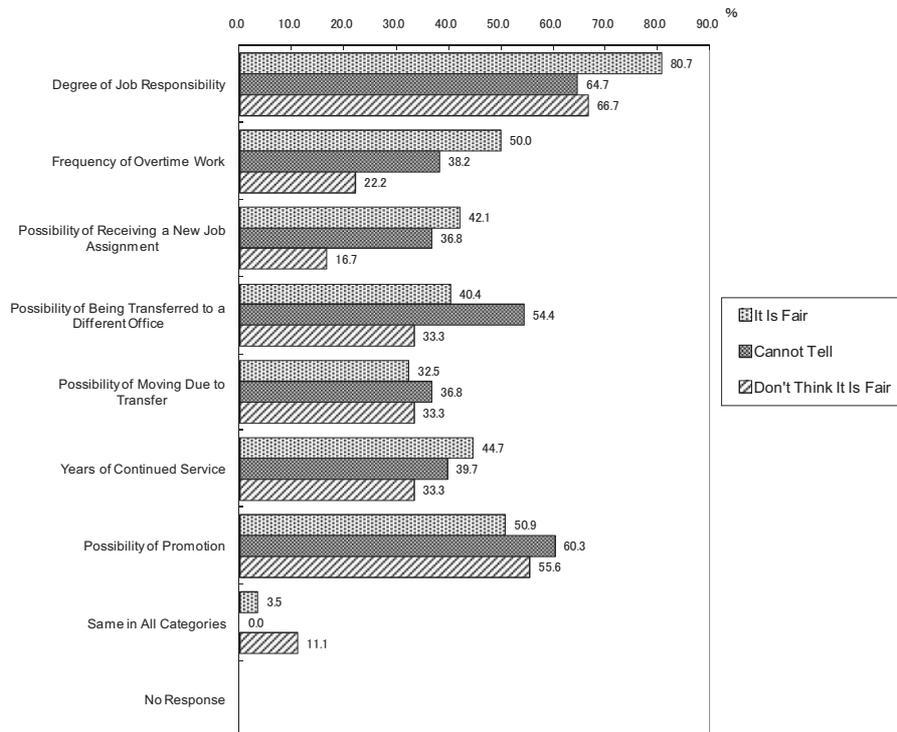
**Figure 9-1 Difference of Conditions Compared to Non-Regular Employees Seen by Regular Employees (By Opinion on Fairness / Employment Status: Part-Time)**

— Regular Employees with Higher Wages —

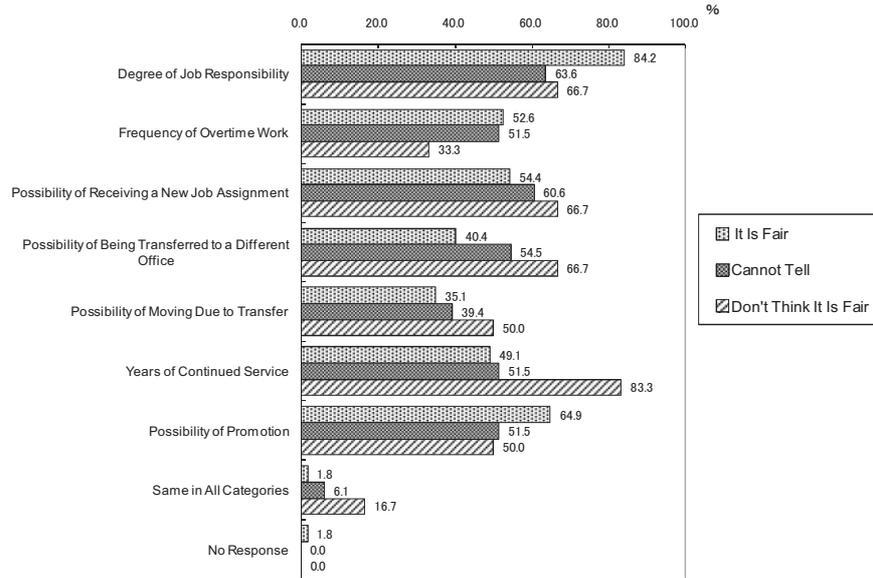


**Figure 9-2 Difference of Conditions Compared to Non-Regular Employees Seen by Regular Employees (By Opinion on Fairness / Employment Status: Fixed-Term)**

— Regular Employees with Higher Wages —



**Figure 9-3 Difference of Conditions Compared to Non-Regular Employees Seen by Regular Employees (By Opinion on Fairness / Employment Status: Dispatched Worker) — Regular Employees with Higher Wages —**



Source: JILPT's "Suvey on the Current Conditions of Employment of Workers with Diverse Employment Type" (Employee Survey) (Implemented in 2010).

**(2) Wage Differential as seen from Non-Regular Employees/Workers**

While a large number of non-regular employees responded “Do not know” to whether their wage was lower than regular employees, the percentage who responded they received a higher wage was 10% for part-time workers and fixed-term employees, slightly over 20% for dispatched workers; many of them responded that they received lower wages than their regular employee counterparts. When paid less, in terms of the wage discrepancy, the largest response for part-time workers was that they received less than 50% of regular employees, while for fixed-term employees and dispatched workers the largest response was that they received 30% less than regular employees (Table 6-1).

**Table 6-1 Responses of Non-Regular Employees / Wage Comparison with Regular Employees with the Same Job Content (hourly basis)**

Employment Type	Total	(%)								
		Higher	Almost the Same	About 10% Less	About 20% Less	About 30% Less	About 40% Less	Less than 50%	Don't Know	No Response
Part-Time Worker	100.0	11.3	3.4	1.6	3.7	6.0	7.6	17.5	47.2	1.7
Fixed-Term Employee	100.0	9.9	7.0	3.0	8.8	11.8	7.6	8.6	41.7	1.5
Dispatched Worker	100.0	21.7	1.4	1.4	2.9	8.7	5.8	8.7	47.8	1.4

Source: JILPT's "Suvey on the Current Conditions of Employment of Workers with Diverse Employment Type" (Employee Survey) (Implemented in 2010).

Note: Response of regular employees who said there are regular employees with the same job content in their workplace.

**Table 6-2 Fairness of Wage Disparity Between Regular and Non-Regular Employees**

Employment Type	Difference	(%)				
		Total	It Is Fair	Cannot Tell	Don't Think It Is Fair	No Response
Part-Time Worker	Mine is Higher	100.0	48.8	22.1	24.4	4.7
	Almost the Same	100.0	65.4	23.1	7.7	3.8
	Mine is Lower	100.0	27.4	33.6	39.0	0.0
Fixed-Term Employee	Mine is Higher	100.0	46.2	28.8	23.1	1.9
	Almost the Same	100.0	27.0	56.8	10.8	5.4
	Mine is Lower	100.0	16.7	31.6	51.2	0.5
Dispatched Worker	Mine is Higher	100.0	33.3	53.3	13.3	0.0
	Almost the Same	100.0	0.0	100.0	0.0	0.0
	Mine is Lower	100.0	26.3	31.6	36.8	5.3

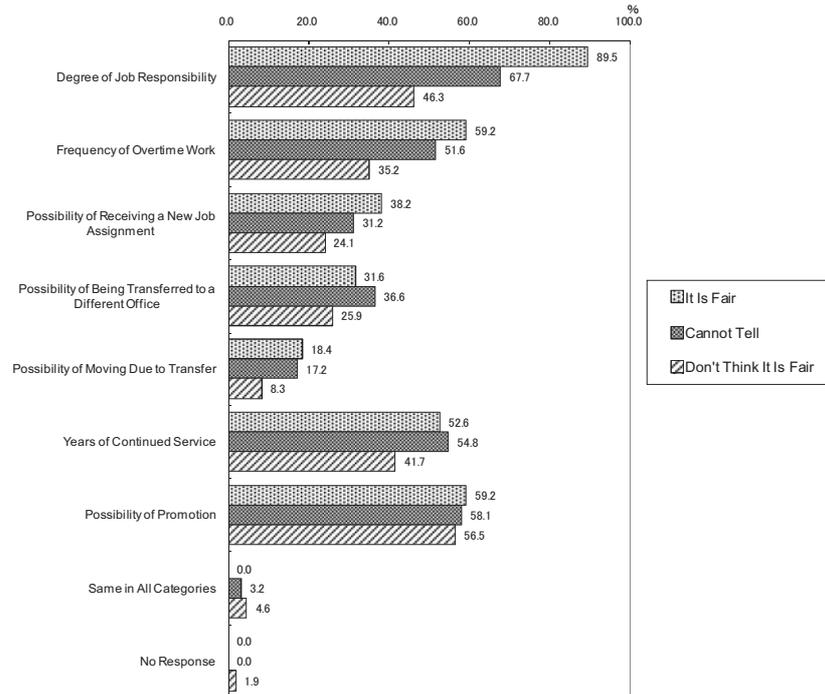
Source: JILPT's "Survey on the Current Conditions of Employment of Workers with Diverse Employment Type" (Employee Survey) (Implemented in 2010).

Examining whether workers felt wage difference as reasonable or not, among the non-regular employees who felt they received a lower wage compared to regular employees, a small percentage of them responded "Think it is reasonable," while relatively a large percentage of them responded "Do not think it is reasonable" (Table 6-2).

### *Differences in Wage and Employment Conditions*

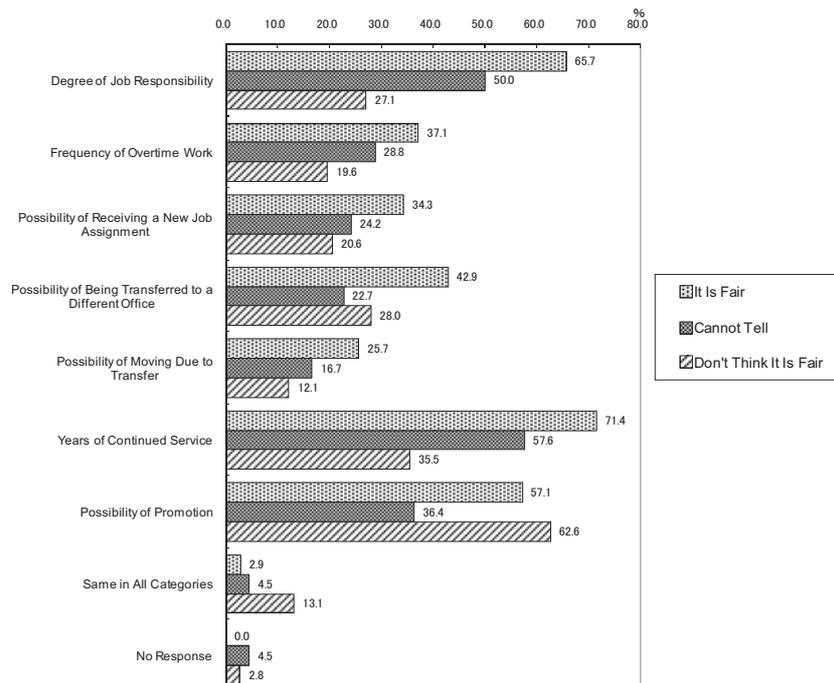
Examining differences in employment conditions recognized by non-regular employees who receive lower wages than comparable regular employees showed nearly the same tendency as was observed with regular employees above, except some minute differences. That is, common responses that worked in the direction of viewing wage inequality as reasonable due to differences in working conditions included "Job responsibility" and "Frequency of overtime." Among part-time workers and fixed-term employees, "Possibility of changing to another job," "Possibility of changing to another business establishment" and "Consecutive years of work" are included. Additionally, from the perspective of non-regular employees, "Possibility of job transfer involving relocation" also corresponds to this view of wage inequality as being reasonable. Whereas, for dispatched workers, the same type of trend is not observed for these abovementioned conditions (Figures 10-1, 10-2 and 10-3).

**Figure 10-1 Difference of Conditions Compared to Regular Employees Seen by Non-Regular Employees (By Opinion on Fairness)**  
**— Part-Time Workers with Lower Wages —**

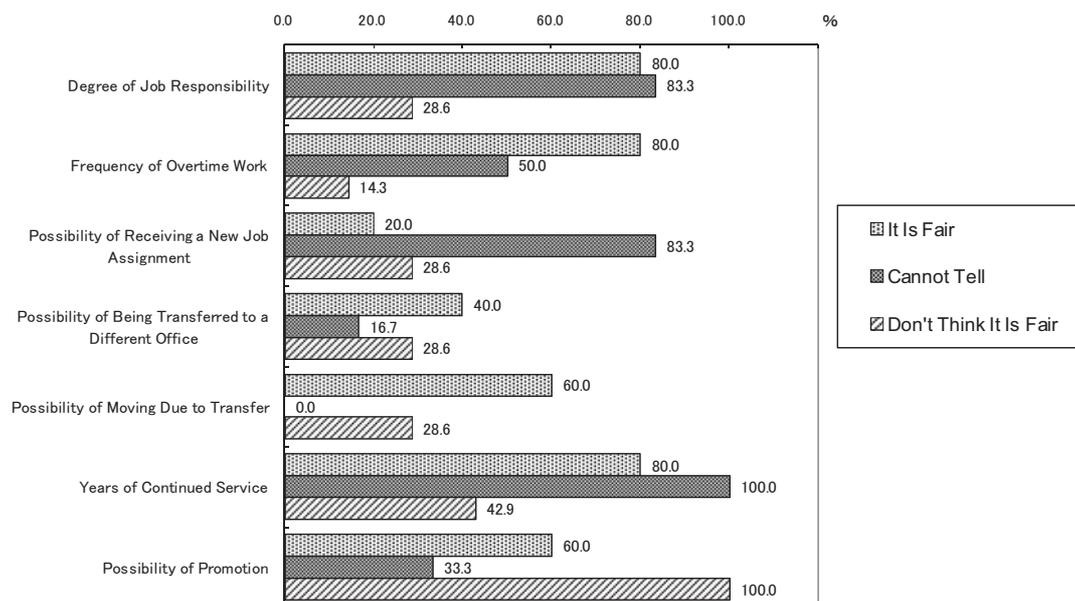


Source: JILPT's "Survey on the Current Conditions of Employment of Workers with Diverse Employment Type" (Employee Survey) (Implemented in 2010).

**Figure 10-2 Difference of Conditions Compared to Regular Employees Seen by Non-Regular Employees (By Opinion on Fairness)**  
**— Fixed-Term Workers with Lower Wages —**



**Figure 10-3 Difference of Conditions Compared to Regular Employees Seen by Non-Regular Employees (By Opinion on Fairness)**  
**— Dispatched Workers with Lower Wages —**



Source: JILPT's "Survey on the Current Conditions of Employment of Workers with Diverse Employment Type" (Employee Survey) (Implemented in 2010).

Note: There were no responses of "Same in All Categories" and "No Response."

## 5. Employment Stability

Next let us examine the argument that non-regular employment lacks employment stability.

In most instances, non-regular employment is fixed-term employment, while most business establishments state the reason for utilizing non-regular employment as "To cope with the temporary / seasonal change in work volume" (refer to Figure 3). As such, it goes without saying that non-regular employment lacks employment stability.

However, the characteristics of fixed-term employment, that is, whether the fixed-term employment contract is renewed or not when it expires, must be kept in mind. Results from the D-Survey on contract renewal of fixed-term employment indicated that 70% to over 80% of business establishments with fixed-term part-time workers and 60% to 70% with fixed-term employees responded "Will in principle renew the contract." Just because employment is fixed-term in nature, it does not necessarily mean that the employment is instable.<sup>15</sup> Although no similar survey was conducted for dispatched workers, it can be easily envisioned that dispatched workers lack similar employment stability as found even in direct employment such as part-time or fixed-term employees.

<sup>15</sup> As mentioned above, while regulations exist regarding single fixed-term employment contracts, there are no legal regulations in place governing multiple contract renewals.

**Table 7 Handling of Employment Contract Renewal when the Contract Expires - by Department (for Business Establishments with Relevant Departments) -**

(%)

	Total	Fixed-Term Part-time Worker				Fixed-Term Employee			
		Will in principle renew the contract	Will renew up to the maximum renewable number of terms	Will in principle not renew the contract	It is hard to say	Will in principle renew the contract	Will renew up to the maximum renewable number of terms	Will in principle not renew the contract	It is hard to say
Clerical and Planning Department	100.0	76.9	12.2	1.0	9.8	65.2	19.7	1.3	13.7
Development and Technical Department	100.0	73.4	11.7	2.1	12.8	62.1	18.4	1.0	18.4
Field Work Department	100.0	84.2	6.5	0.8	8.5	65.7	18.5	0.9	14.8
Sales Department	100.0	82.5	5.2	1.3	11.0	72.7	12.9	0.8	13.6
Other Department	100.0	77.0	8.0	0.6	14.4	61.3	19.4	1.6	17.7

Source: JILPT's "Survey on the Current Conditions of Employment of Workers with Diverse Employment Type" (Establishment Survey) (Implemented in 2010).

Note: The above excludes offices that do not have the relevant employment type and those without a response.

### ***Economic Changes and Employment Instability – Experiences in the Post Lehman's Failure Era***

Even though some consideration is needed as mentioned above, there is no doubt that non-regular employment is essentially subject to employment instability. The rapid changes in employment climate seen from the global economic changes occurring since the second half of 2008 has made this much clearer. The D-Survey conducted in August 2010 identified underlying trends during the period of economic change by surveying net sales and changes (increase/decrease) in employment compared to three years earlier. Table 8 organizes these findings. Results show that net sales, which are an indicator of business volume, fell about 5% for all industries combined compared to three years earlier, but the manufacturing industry saw a much wider margin of decline, as the machinery equipment manufacturing industry saw a nearly 20% drop. The only industry that recorded an increase in net sales was medical/welfare. In terms of employment, although regular employees and fixed-term part-time workers remained nearly unchanged, the total number of dispatched workers declined by about 5% across all industries and over 10% in the manufacturing industry.<sup>16</sup> This data also suggests that during the current economic recession dispatched workers have become subject to employment adjustments. As indicated by employment adjustments concentrating on dispatched workers during this recession, whenever there is a certain degree of economic upheaval it is an undeniable fact that non-regular employees will be the first to become fodder for employment adjustments.

<sup>16</sup> The principal reason behind why the number of fixed-term employees and entrusted employees is on the rise can be attributed to the fact that the baby boomer generation entered their 60s during this time and these employment types were used as a platform to employing these older age workers.

**Table 8 Fluctuation Index of Sales and Employment in Most Recent Three Years  
(Weighted Average of Composition Ratio based on Class Value)**

	Sales	Regular employee	Fixed-term part-time worker	Fixed-Term employee	Entrusted employee	Dispatched worker	Outsourcee company employee
Industry Total	94.8	99.9	100.5	102.9	106.4	94.3	100.4
Manufacturing industry	87.4	98.1	97.6	103.0	107.6	88.6	98.9
Consumer related manufacturing	92.5	98.2	98.5	103.4	108.1	93.3	99.7
Materials related manufacturing	87.0	98.5	96.5	105.0	107.6	88.4	102.2
Machinery related manufacturing	82.4	97.6	97.7	101.3	106.6	85.3	94.7
Financial and insurance industry	96.7	101.8	96.0	108.9	111.0	91.3	107.5
Medical care and welfare industry	108.4	105.4	104.6	102.0	107.1	98.1	103.6

Source: JILPT's "Survey on the Current Conditions of Employment of Workers with Diverse Employment Type" (Establishment Survey) (Implemented in 2010).

- Note: 1. The above shows the weighted average of each class value using the composition ratio for the survey response ranking the standard index of the most recent business year or July 2010, assuming the sales from 3 years ago and the employment volume of each employment status has an index value of 100. This table shows to which side the business is leaning in terms of an increase/decrease trend. It does not directly indicate the quantitative increase/decrease ratio.
2. "Weighted average based on class value" of sales is calculated with the exclusion of "the office did not exist 3 years ago" and "no response."
3. "Weighted average based on class value" of employment is calculated with the exclusion of "are not currently in the office, nor were they 3 years ago" and "no relevant type of employment or no response."

## 6. Societal and Political Challenges concerning Non-Regular Employment

The societal and political challenges concerning non-regular employment mostly correspond to the points in question discussed above.

### *Converting to Regular Employee*

The first challenge is to provide every opportunity possible for non-regular employees who desire to work as regular employees to fulfill their desire. Measures to address this include internal policies for companies to convert non-regular employees to regular employees and to promote direct hiring of regular employees across companies. In addition, this problem is also closely related to decline in the hiring of new graduates as regular employees. In the process of transitioning from school to employment, the ratio of new graduates hired as directly-employed regular employees has declined, while the percentage of those who start as non-regular employees has risen. As was the case earlier when examining the reason for utilizing non-regular employment or selecting non-regular employment, primarily fixed-term employees (contract employees) are now fulfilling this function. Together with further improving internal policies to convert non-regular employees to regular employees, it is also important to reduce the mismatch seen in Japan caused by new graduates preferring large corporations as an employment destination through providing more accurate information and enable new graduates to begin their career as a regular employee to every extent possible. Additionally, in order to promote industry-wide practices of converting non-regular employees to regular employees, Japan must improve on the occupational skills development of its non-regular employees as well as establish a relevant assessment system within society.

### ***Balanced and Equal Treatment***

The second challenge is the issue of unequal treatment between regular and non-regular employees, especially wage differential. This is also an important issue to address from the perspective of developing an employment environment of non-regular employees. As discussed above, however, a social consensus has yet to be reached on what is fair treatment in terms of wage. This issue is considered a product of Japanese labor society where wages are based on “job titles” that include a combination of factors, rather than jobs classified by work tasks. The challenge remains for Japanese society to establish a Japanese-style “equal pay for equal work” system involving non-regular employees that responds to the scheme of society.

In this regard, an important step forward was made in April 2008 as the Revised Part-Time Employment Act was promulgated. In the revised Act, job duties and accompanying level of job responsibility, determination of employment period, and range of change in job assignment (prospective career development) are stipulated as the key factors to prohibit discriminatory treatment including wages.

Meanwhile, another major challenge still exists. In Japanese labor society, the labor-management relationship in a company plays an essentially important role. A consensus on a “job title,” which forms the basis of wages, must be reached between labor and management. However, to date, we cannot say that non-regular employees are sufficiently involved in the same labor-management relationship.

### ***Economic Change and Non-Regular Employment***

The third challenge is addressing the instability of non-regular employment. However, it is fundamentally impossible to give the same level of stability of regular employment to non-regular employees. For fixed-term employment, as long as appropriate measures are taken, such as clear statement of possibility/impossibility of contract renewal or condition of renewal, it is a matter of course that the employment relationship will end as the contract period expires and normally, the employee can only seek other employment opportunities through another job hunting process. In the recent global economic crisis, however, large scale economic shifts have proven unavoidable. At these times it is very difficult to look for so called “other employment opportunities.” In such situations, it should be appropriate to temporarily establish a generous system for the employment security of non-regular employees.

## **Epilogue**

It is believed that developed countries in their economic maturity see in common an increase of non-regular employment and share the same challenges. Given this, it is particularly meaningful for such countries to exchange experiences in this regard taking into account country-specific differences. While this paper sketches only a brief outline of the conditions of non-regular employment in Japan, it is the author’s sincere hope that the above information and discussion serves as pertinent reference material for the aforementioned seminar.

Table 1 Number of Employees in Each Industry Categorized by Employment Type

< Survey in 2002 >	Number of employees excluding executives (1000 persons)	Employment Type Composition of each Industry (%)							Industry Composition of each Employment Type (%)						
		Number of employees excluding executives	Regular employees /workers	Part-time workers	Temporary workers	Dispatched workers from temp agency	Contract /Entrusted employees	Other	Number of employees excluding executives	Regular Employees /Workers	Part-time workers	Temporary workers	Dispatched workers from temp agency	Contract /Entrusted Employees	Other
Total	50,837.5	100.0	68.0	15.4	8.3	1.4	4.9	1.9	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Agriculture, forestry, and fishery	411.2	100.0	50.9	25.0	12.3	0.4	3.6	7.7	0.8	0.6	1.3	1.2	0.2	0.6	3.3
Mining	34.0	100.0	90.0	4.7	1.5	0.3	2.4	0.9	0.1	0.1	0.0	0.0	0.0	0.0	0.0
Construction	4,175.8	100.0	79.8	3.9	6.1	0.5	3.4	5.8	8.2	9.6	2.1	6.0	3.1	5.7	25.6
Manufacturing	10,457.1	100.0	76.5	14.2	3.1	1.9	3.4	0.7	20.6	23.1	19.0	7.8	27.1	14.3	8.1
Food articles manufacturing	1,274.5	100.0	49.5	37.7	7.2	1.1	3.6	0.7	2.5	1.8	6.1	2.2	2.0	1.9	1.0
Clothing / Other textile manufacturing	397.0	100.0	60.3	31.1	3.1	0.7	3.2	1.7	0.8	0.7	1.6	0.3	0.4	0.5	0.7
Machinery equipment manufacturing	4,161.6	100.0	82.4	8.8	1.9	2.7	3.6	0.4	8.2	9.9	4.7	1.9	15.6	6.1	2.0
Electricity, gas, heat supply, water	373.8	100.0	91.2	1.7	1.1	0.4	4.8	0.8	0.7	1.0	0.1	0.1	0.2	0.7	0.3
Information and communication	1,608.2	100.0	79.7	4.0	4.7	3.8	7.2	0.7	3.2	3.7	0.8	1.8	8.5	4.7	1.2
Transportation	2,995.6	100.0	76.6	7.9	6.9	0.9	6.7	0.8	5.9	6.6	3.0	4.9	3.7	8.1	2.7
Wholesale	3,031.2	100.0	80.8	10.4	2.9	1.2	4.0	0.6	6.0	7.1	4.0	2.1	5.2	4.8	1.8
Retail	6,049.1	100.0	43.2	33.0	18.5	0.6	3.7	0.8	11.9	7.6	25.5	26.5	5.0	9.1	5.3
Various merchandise retail	550.7	100.0	32.3	45.3	13.9	1.3	6.6	0.5	1.1	0.5	3.2	1.8	1.0	1.5	0.3
Financing / Insurance	1,659.1	100.0	77.7	10.1	1.3	4.8	5.6	0.6	3.3	3.7	2.1	0.5	11.1	3.8	1.0
Real estate	490.6	100.0	67.4	13.8	4.5	1.2	11.1	1.9	1.0	1.0	0.9	0.5	0.8	2.2	1.0
Accommodations, eating and drinking service	2,607.9	100.0	32.5	30.6	32.7	0.4	2.9	0.9	5.1	2.5	10.2	20.1	1.4	3.0	2.4
Medical, health care and welfare	4,490.9	100.0	69.7	19.4	2.7	0.7	5.3	2.0	8.8	9.1	11.2	2.9	4.3	9.7	9.4
Education and learning support	2,484.9	100.0	70.3	7.0	8.8	0.5	8.1	5.2	4.9	5.1	2.2	5.1	1.9	8.2	13.6
Compound services	750.9	100.0	75.1	12.2	6.2	0.1	4.3	2.0	1.5	1.6	1.2	1.1	0.1	1.3	1.6
Services (not elsewhere classified)	6,189.1	100.0	60.5	17.8	10.3	1.7	7.2	2.2	12.2	10.8	14.1	15.0	14.6	18.1	14.4
Laundry, beauty and bath services	610.5	100.0	52.7	34.9	7.5	0.2	2.5	2.3	1.2	0.9	2.7	1.1	0.2	0.6	1.5
Miscellaneous living-related services	359.9	100.0	51.0	24.2	11.3	2.6	9.0	1.8	0.7	0.5	1.1	1.0	1.3	1.3	0.7
Entertainment	756.3	100.0	45.7	17.5	25.3	0.5	7.7	3.3	1.5	1.0	1.7	4.5	0.5	2.4	2.7
Miscellaneous business services	1,771.4	100.0	46.7	25.9	11.4	3.5	10.7	1.3	3.5	2.4	5.9	4.8	8.7	7.6	2.5
Government (not elsewhere classified)	2,174.0	100.0	88.3	2.4	2.2	0.1	4.8	2.2	4.3	5.6	0.7	1.1	0.3	4.3	5.1
Industries unable to classify	854.2	100.0	50.0	14.3	15.9	10.6	4.3	3.7	1.7	1.2	1.6	3.2	12.6	1.5	3.4

**Table 1 Number of Employees in Each Industry Categorized by Employment Type (continuation)**

< Survey in 2007 >	Number of employees excluding executives (1000 persons)	Employment Type Composition of each Industry (%)								Industry Composition of each Employment Type (%)							
		Number of employees excluding executives	Regular employees /workers	Part-time workers	Temporary workers	Dispatched workers from temp agency	Contract employee	Entrusted employee	Other	Number of employees excluding executives	Regular Employees /workers	Part-time workers	Temporary workers	Dispatched workers from temp agency	Contract employee	Entrusted employee	Other
Total	53,262.5	100.0	64.4	16.6	7.7	3.0	4.2	2.0	2.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Agriculture, forestry, and fishery	623.2	100.0	53.1	19.3	8.4	0.8	2.2	0.8	15.4	1.2	1.0	1.4	1.3	0.3	0.6	0.5	9.2
Mining	25.5	100.0	87.8	3.1	2.7	-	3.1	2.7	0.4	0.0	0.1	0.0	0.0	-	0.0	0.1	0.0
Construction	3,729.1	100.0	79.9	4.3	5.7	0.6	3.1	1.3	4.9	7.0	8.7	1.8	5.2	1.5	5.1	4.4	17.4
Manufacturing	10,221.3	100.0	72.8	13.4	2.4	5.7	3.5	1.3	0.8	19.2	21.7	15.4	6.1	36.1	15.9	12.9	8.3
Food articles manufacturing	1,194.4	100.0	48.7	36.7	5.9	3.1	3.7	0.8	1.0	2.2	1.7	5.0	1.7	2.3	1.9	0.9	1.2
Clothing / Other textile manufacturing	285.3	100.0	61.8	28.1	2.6	0.8	2.7	1.3	2.8	0.5	0.5	0.9	0.2	0.1	0.3	0.3	0.8
Machinery equipment manufacturing	4,239.9	100.0	76.7	7.9	1.4	8.1	3.8	1.4	0.6	8.0	9.5	3.8	1.4	21.2	7.2	5.7	2.5
Electricity, gas, heat supply, water	375.6	100.0	91.0	1.1	0.8	0.9	1.9	3.4	0.9	0.7	1.0	0.0	0.1	0.2	0.3	1.2	0.3
Information and communication	2,041.9	100.0	75.6	5.5	4.2	4.6	7.9	1.2	0.9	3.8	4.5	1.3	2.1	5.9	7.2	2.3	1.8
Transportation	2,968.8	100.0	71.5	10.2	5.7	2.8	6.2	2.7	0.7	5.6	6.2	3.4	4.2	5.2	8.1	7.6	2.1
Wholesale	2,917.7	100.0	78.0	11.5	2.6	2.1	3.8	1.4	0.6	5.5	6.6	3.8	1.8	3.8	4.9	4.0	1.7
Retail	6,353.7	100.0	41.2	34.3	17.2	1.3	4.0	0.9	1.1	11.9	7.6	24.6	26.8	5.1	11.1	5.3	6.7
Various merchandise retail	541.0	100.0	28.1	49.0	12.3	2.0	7.4	0.8	0.3	1.0	0.4	3.0	1.6	0.7	1.8	0.4	0.2
Financing / Insurance	1,597.7	100.0	75.1	9.9	0.9	6.6	4.2	2.9	0.4	3.0	3.5	1.8	0.3	6.6	3.0	4.3	0.6
Real estate	568.9	100.0	63.4	14.3	5.2	2.2	7.4	5.4	1.9	1.1	1.1	0.9	0.7	0.8	1.9	2.9	1.0
Accommodations, eating and drinking service	2,664.4	100.0	30.8	32.3	31.6	0.9	2.6	0.6	1.2	5.0	2.4	9.7	20.6	1.5	3.1	1.6	3.0
Medical, health care and welfare	5,534.3	100.0	64.1	23.3	2.8	1.4	3.6	2.8	1.9	10.4	10.3	14.6	3.8	4.9	8.7	14.6	10.1
Education and learning support	2,641.3	100.0	67.1	8.7	8.5	0.9	4.7	4.2	5.8	5.0	5.2	2.6	5.5	1.5	5.5	10.4	14.7
Compound services	499.1	100.0	76.9	12.1	3.1	0.5	3.8	2.1	1.3	0.9	1.1	0.7	0.4	0.2	0.9	1.0	0.6
Services (not elsewhere classified)	6,459.9	100.0	58.3	19.0	9.3	2.3	6.4	2.5	2.1	12.1	11.0	13.8	14.8	9.2	18.3	15.4	13.1
Laundry, beauty and bath services	697.1	100.0	54.2	32.8	6.6	0.3	2.4	1.0	2.7	1.3	1.1	2.6	1.1	0.1	0.7	0.6	1.8
Miscellaneous living-related services	334.6	100.0	48.7	26.4	10.0	3.5	8.0	1.2	2.2	0.6	0.5	1.0	0.8	0.7	1.2	0.4	0.7
Entertainment	680.5	100.0	41.7	17.3	27.6	1.7	7.0	1.8	2.9	1.3	0.8	1.3	4.6	0.7	2.1	1.1	1.9
Miscellaneous business services	1,991.5	100.0	44.3	27.9	9.2	3.0	11.0	3.4	1.2	3.7	2.6	6.3	4.5	3.8	9.7	6.3	2.2
Government (not elsewhere classified)	2,184.7	100.0	87.9	2.3	1.5	0.3	1.2	4.7	2.0	4.1	5.6	0.6	0.8	0.4	1.2	9.6	4.1
Industries unable to classify	1,855.4	100.0	47.1	17.1	11.8	14.5	4.9	1.0	2.9	3.5	2.5	3.6	5.4	16.7	4.1	1.8	5.1

Source: Employment Status Survey from the Statistics Bureau of the Ministry of Internal Affairs and Communications.

Table 2 Number of Employees in Each Occupation Categorized by Employment Type

< Survey in 2002 >	Number of employees excluding executives (1000 persons)	Employment Type Composition of Each Occupation (%)							Occupation Composition of Each Employment Type (%)						
		Number of employees excluding executives	Regular employees /workers	Part-time workers	Temporary workers	Dispatched workers from temp agency	Contract /Entrusted employees	Other	Number of employees excluding executives	Regular employees /workers	Part-time workers	Temporary workers	Dispatched workers from temp agency	Contract /Entrusted Employees	Other
Total	50,837.5	100.0	68.0	15.4	8.3	1.4	4.9	1.9	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Specialized and technical workers	7,581.7	100.0	81.5	6.8	3.4	0.6	5.0	2.6	14.9	17.9	6.6	6.1	6.1	15.3	20.4
Healthcare workers	2,259.0	100.0	78.6	14.6	2.5	-	3.1	1.1	4.4	5.1	4.2	1.3	-	2.8	2.6
Social welfare specialist professionals	659.1	100.0	71.4	14.9	1.9	0.1	8.6	3.0	1.3	1.4	1.3	0.3	0.1	2.3	2.1
Writers, journalists and editors	94.4	100.0	80.3	1.9	4.4	1.4	10.2	1.9	0.2	0.2	0.0	0.1	0.2	0.4	0.2
Artists, photographers, and designers	147.8	100.0	71.0	4.1	9.4	1.6	10.9	2.9	0.3	0.3	0.1	0.3	0.3	0.6	0.5
Musicians and stage designers	77.7	100.0	39.9	3.1	11.3	1.7	22.8	21.4	0.2	0.1	0.0	0.2	0.2	0.7	1.8
Other specialist and technical workers	450.4	100.0	41.2	8.6	29.8	1.8	13.6	4.9	0.9	0.5	0.5	3.2	1.1	2.5	2.3
Administrative and managerial workers	577.5	100.0	95.9	0.2	0.0	-	3.0	0.8	1.1	1.6	0.0	0.0	-	0.7	0.5
Clerical workers	11,641.5	100.0	69.6	15.2	5.4	3.1	5.6	1.1	22.9	23.4	22.6	14.8	50.0	26.4	13.4
General clerical workers	10,702.6	100.0	70.8	15.0	5.1	2.7	5.4	1.0	21.1	21.9	20.5	12.9	40.0	23.2	11.8
Outdoor service workers	85.1	100.0	28.1	27.7	15.2	0.6	23.4	5.2	0.2	0.1	0.3	0.3	0.1	0.8	0.5
Office appliance operators	494.2	100.0	50.8	18.1	8.5	14.3	6.9	1.3	1.0	0.7	1.1	1.0	9.8	1.4	0.7
Sales workers	7,067.0	100.0	69.5	13.7	11.2	0.7	4.2	0.6	13.9	14.2	12.4	18.7	6.7	12.0	4.6
Service workers	4,813.7	100.0	40.2	29.6	22.0	0.9	5.4	1.8	9.5	5.6	18.2	25.0	6.0	10.5	9.3
Customer service workers	1,608.9	100.0	26.7	26.6	42.0	0.6	3.0	1.0	3.2	1.2	5.5	15.9	1.3	2.0	1.8
Security workers	1,025.9	100.0	78.5	3.9	7.5	-	7.3	2.0	2.0	2.3	0.5	1.8	-	3.0	2.1
Agricultural, forestry and fishery workers	381.2	100.0	52.4	21.6	12.4	0.3	4.0	9.1	0.7	0.6	1.1	1.1	0.2	0.6	3.7
Transport and communication workers	2,029.1	100.0	81.3	3.6	6.6	0.6	6.3	1.4	4.0	4.8	0.9	3.2	1.6	5.2	3.1
Production process and related workers	14,993.6	100.0	65.5	18.9	7.4	1.3	4.1	2.5	29.5	28.4	36.2	26.3	26.6	25.0	39.7
Electrical machinery assembly and repair workers	1,120.9	100.0	71.6	16.3	2.9	4.0	4.4	0.5	2.2	2.3	2.3	0.8	6.3	2.0	0.6
Food manufacturing workers	1,142.4	100.0	37.7	47.5	9.9	0.9	3.3	0.7	2.2	1.2	6.9	2.7	1.4	1.5	0.9
Apparel, fiber product manufacturing workers	323.0	100.0	52.6	40.9	2.7	0.3	1.6	1.9	0.6	0.5	1.7	0.2	0.1	0.2	0.7
Transportation labor workers	1,532.7	100.0	50.2	24.3	16.0	0.9	6.4	1.9	3.0	2.2	4.8	5.8	1.9	3.9	3.1
Other labor workers	1,706.3	100.0	28.6	45.5	15.0	1.4	6.7	2.7	3.4	1.4	9.9	6.1	3.2	4.6	4.9
Workers not classifiable by occupation	726.3	100.0	55.1	15.5	17.1	2.9	4.2	4.1	1.4	1.2	1.4	2.9	2.9	1.2	3.1

**Table 2 Number of Employees in Each Occupation Categorized by Employment Type (continuation)**

< Survey in 2007 >	Number of employees excluding executives (1000 persons)	Employment Type Composition of Each Occupation (%)								Occupation Composition of Each Employment Type (%)							
		Number of employees excluding executives	Regular employees /workers	Part-time workers	Temporary workers	Dispatched workers from temp agency	Contract employee	Entrusted Employee	Other	Number of employees excluding executives	Regular employees /workers	Part-time workers	Temporary workers	Dispatched workers from temp agency	Contract Employee	Entrusted Employee	Other
Total	53,262.5	100.0	64.4	16.6	7.7	3.0	4.2	2.0	2.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Specialized and technical workers	8,152.4	100.0	78.8	8.4	3.3	0.9	3.4	2.5	2.6	15.3	18.7	7.7	6.6	4.7	12.4	19.0	20.1
Healthcare workers	2,585.9	100.0	75.6	17.0	2.4	0.2	1.8	1.9	1.0	4.9	5.7	5.0	1.5	0.3	2.0	4.7	2.5
Social welfare specialist professionals	725.4	100.0	67.5	17.5	2.2	0.4	4.9	5.2	2.3	1.4	1.4	1.4	0.4	0.2	1.6	3.6	1.6
Writers, journalists and editors	89.9	100.0	76.9	2.0	5.0	1.3	8.2	4.7	2.0	0.2	0.2	0.0	0.1	0.1	0.3	0.4	0.2
Artists, photographers, and designers	191.2	100.0	73.3	3.8	6.7	2.6	9.4	0.8	3.3	0.4	0.4	0.1	0.3	0.3	0.8	0.1	0.6
Musicians and stage designers	85.4	100.0	44.8	2.9	6.6	2.0	15.1	5.9	22.5	0.2	0.1	0.0	0.1	0.1	0.6	0.5	1.8
Other specialist and technical workers	499.0	100.0	39.3	10.2	27.8	1.7	9.3	6.1	5.4	0.9	0.6	0.6	3.4	0.5	2.1	2.9	2.6
Administrative and managerial workers	466.0	100.0	97.3	0.1	0.0	-	0.5	1.7	0.3	0.9	1.3	0.0	0.0	-	0.1	0.8	0.2
Clerical workers	12,401.4	100.0	65.6	16.4	4.9	4.7	4.4	2.6	1.3	23.3	23.7	23.0	14.9	36.6	24.4	30.8	14.9
General clerical workers	11,656.1	100.0	66.4	16.3	4.7	4.5	4.1	2.6	1.2	21.9	22.6	21.5	13.5	32.5	21.3	28.6	13.9
Outdoor service workers	77.4	100.0	24.4	28.8	14.7	0.5	9.3	16.1	5.8	0.1	0.1	0.3	0.3	0.0	0.3	1.2	0.4
Office appliance operators	314.8	100.0	49.5	13.8	5.9	19.5	9.1	1.2	0.9	0.6	0.5	0.5	0.5	3.8	1.3	0.4	0.3
Sales workers	6,879.2	100.0	66.9	14.6	11.1	1.3	4.2	1.1	0.8	12.9	13.4	11.3	18.7	5.6	12.8	7.1	5.1
Service workers	5,473.9	100.0	39.0	32.0	19.0	1.3	4.7	1.8	2.1	10.3	6.2	19.8	25.5	4.5	11.3	9.5	10.9
Customer service workers	1,520.6	100.0	25.1	28.9	39.9	1.6	2.7	0.5	1.3	2.9	1.1	5.0	14.9	1.5	1.8	0.7	1.9
Security workers	1,083.3	100.0	77.5	4.7	6.8	-	5.8	3.4	1.7	2.0	2.4	0.6	1.8	-	2.8	3.5	1.8
Agricultural, forestry and fishery workers	596.3	100.0	55.5	15.9	8.2	0.6	2.5	1.2	16.0	1.1	1.0	1.1	1.2	0.2	0.7	0.7	9.2
Transport and communication workers	1,965.5	100.0	75.4	4.9	6.5	1.6	6.9	3.4	1.2	3.7	4.3	1.1	3.1	1.9	6.0	6.2	2.3
Production process and related workers	14,652.1	100.0	62.1	19.4	6.5	4.3	4.0	1.5	2.2	27.5	26.5	32.0	23.2	39.6	25.8	20.4	30.7
Electrical machinery assembly and repair workers	1,077.5	100.0	65.5	13.7	1.9	11.9	5.1	1.0	0.8	2.0	2.1	1.7	0.5	8.0	2.4	1.0	0.8
Food manufacturing workers	1,227.0	100.0	35.9	47.4	8.9	2.4	3.2	0.6	1.3	2.3	1.3	6.6	2.7	1.9	1.8	0.7	1.5
Apparel, fiber product manufacturing workers	241.2	100.0	52.5	36.8	2.2	1.3	2.5	0.8	3.8	0.5	0.4	1.0	0.1	0.2	0.3	0.2	0.9
Transportation labor workers	1,589.3	100.0	46.8	26.2	12.7	5.3	5.5	1.9	1.5	3.0	2.2	4.7	5.0	5.2	3.9	2.8	2.3
Other labor workers	1,711.0	100.0	27.3	46.5	13.6	3.3	4.2	2.6	2.4	3.2	1.4	9.0	5.7	3.6	3.2	4.2	4.0
Workers not classifiable by occupation	1,592.4	100.0	51.4	18.4	12.8	6.9	5.2	1.3	3.3	3.0	2.4	3.3	5.0	6.8	3.6	1.9	5.0

Source: Employment Status Survey from the Statistics Bureau of the Ministry of Internal Affairs and Communications.

**Table 3 Number of Employees by Gender and Age Group Categorized by Employment Type****(1) Percentage of Female Employees**

2002						
	Age Total	Age 15-29	Age 30-44	Age 45-54	Age 55-64	Age 65 and over
Number of employees excluding executives	42.5	46.6	39.9	43.9	40.1	36.4
Regular employees/workers	29.4	39.7	25.3	26.1	25.8	35.7
Part-time workers	92.0	86.9	97.3	97.3	86.6	60.3
Temporary workers	50.5	50.1	61.0	62.6	39.6	22.7
Dispatched workers	71.8	71.0	77.9	72.8	46.9	35.3
Contract/Entrusted employees	47.2	63.5	63.9	60.3	23.1	13.7
Other	42.5	48.6	55.1	46.0	32.5	24.1

**2007**

	Age Total	Age 15-29	Age 30-44	Age 45-54	Age 55-64	Age 65 and over
Number of employees excluding executives	44.2	47.4	42.0	46.1	42.9	42.6
Regular employees/workers	30.7	41.2	27.0	27.6	27.6	46.2
Part-time workers	89.7	83.6	96.0	96.8	85.7	61.1
Temporary workers	49.5	48.9	62.6	64.2	39.5	22.5
Dispatched workers	62.1	59.9	68.7	61.7	45.5	31.6
Contract employees	48.4	58.5	55.8	54.6	29.6	14.5
Entrusted employees	37.8	68.5	75.2	76.3	21.3	13.5
Other	51.4	47.7	57.1	62.9	47.5	40.8

**(2) Employment Type Composition by Age (Male Employees)**

2002						
	Age Total	Age 15-29	Age 30-44	Age 45-54	Age 55-64	Age 65 and over
Number of employees excluding executives	100.0	100.0	100.0	100.0	100.0	100.0
Regular employees/workers	83.5	73.9	93.2	92.6	73.4	33.7
Part-time workers	2.1	1.5	0.7	1.0	5.0	17.6
Temporary workers	7.2	18.9	2.5	1.8	5.0	15.8
Dispatched workers	0.7	1.2	0.6	0.3	0.5	1.0
Contract/Entrusted employees	4.5	3.1	2.0	2.3	12.3	21.4
Other	1.9	1.3	1.0	1.7	3.4	10.0

**2007**

	Age Total	Age 15-29	Age 30-44	Age 45-54	Age 55-64	Age 65 and over
Number of employees excluding executives	100.0	100.0	100.0	100.0	100.0	100.0
Regular employees/workers	80.0	69.2	90.5	91.4	71.0	29.0
Part-time workers	3.1	1.9	1.0	1.3	6.1	21.8
Temporary workers	6.9	19.3	2.4	1.7	5.0	16.5
Dispatched workers	2.0	3.4	2.0	1.3	1.3	2.4
Contract employees	3.9	4.2	2.7	2.6	6.4	8.8
Entrusted employees	2.2	0.4	0.3	0.5	7.5	13.1
Other	1.7	1.5	1.0	1.2	2.4	8.1

Source: Employment Status Survey from the Statistics Bureau of the Ministry of Internal Affairs and Communications.

**(3) Employment Type Composition by Age (Female Employees)**

2002						
	Age Total	Age 15-29	Age 30-44	Age 45-54	Age 55-64	Age 65 and over
Number of employees excluding executives	100.0	100.0	100.0	100.0	100.0	100.0
Regular employees/workers	47.0	55.9	47.6	41.8	38.1	32.6
Part-time workers	33.3	11.4	36.0	46.8	48.1	46.6
Temporary workers	9.9	21.8	5.8	3.9	4.9	8.1
Dispatched workers	2.4	3.3	3.4	1.1	0.7	1.0
Contract/Entrusted employees	5.4	6.1	5.3	4.5	5.5	5.9
Other	1.9	1.4	1.8	1.8	2.4	5.5

**2007**

	Age Total	Age 15-29	Age 30-44	Age 45-54	Age 55-64	Age 65 and over
Number of employees excluding executives	100.0	100.0	100.0	100.0	100.0	100.0
Regular employees/workers	44.7	53.9	46.4	40.7	36.1	33.5
Part-time workers	33.7	11.0	33.8	45.2	48.8	46.1
Temporary workers	8.6	20.5	5.7	3.6	4.3	6.4
Dispatched workers	4.2	5.6	6.1	2.4	1.4	1.5
Contract employees	4.6	6.6	4.7	3.7	3.6	2.0
Entrusted employees	1.7	0.9	1.4	2.0	2.7	2.7
Other	2.3	1.5	1.8	2.3	2.9	7.5

**Table 4 Reasons for Hiring and Job Assignment Categorized by Employment Type (Multiple Answers)**

**1. Open-ended / Fixed-Term Part-Time Worker**

(%)

	Total	To handle specialized tasks	To secure work-ready and skilled human resources	To have regular employees engage in more important and specialized tasks	To assess the person's abilities when aiming to hire as a regular employee	To adjust headcount in response to economic climate fluctuation	To address a long business (operation) hours	To address the business fluctuation within a day or week	To address the temporary / seasonal change in work volume	To reduce labor costs	Unable to secure regular employees	To replace a regular employee on childcare leave	To meet the needs of the worker	Other
Total	100.0	23.0	24.3	17.1	6.8	14.6	9.1	27.5	16.6	53.6	11.7	6.6	33.5	7.1
Manufacturing industry	100.0	12.3	17.5	18.3	3.0	26.4	6.0	15.3	11.8	56.6	8.1	4.7	31.1	5.1
Consumer related manufacturing	100.0	13.1	21.4	15.5	4.7	21.4	14.2	27.3	14.2	60.8	9.5	4.7	26.2	5.9
Materials related manufacturing	100.0	20.6	19.1	17.6	-	25.0	1.5	10.4	7.4	55.9	1.5	1.5	30.9	5.9
Machinery related manufacturing	100.0	5.1	11.4	21.5	3.8	34.2	1.3	7.6	13.9	54.4	11.4	6.3	38.0	2.5
Information and communications	100.0	23.1	7.6	15.5	7.6	-	-	23.1	7.6	30.7	-	-	15.5	15.5
Transport and postal activities	100.0	23.0	20.8	4.1	10.4	12.4	16.7	31.4	16.7	58.4	8.3	2.0	31.4	6.3
Retail	100.0	14.1	30.8	24.4	3.9	16.7	32.1	41.1	20.5	66.7	5.2	1.3	38.5	2.6
Financing and insurance	100.0	7.0	27.9	32.6	-	2.3	4.7	30.2	18.6	55.7	-	9.4	41.8	-
Accommodations, eating and drinking services	100.0	15.1	27.2	30.3	3.1	24.2	21.2	51.5	30.3	69.7	6.1	-	24.2	12.1
Education and learning support	100.0	40.0	16.7	33.4	4.4	4.4	2.2	18.9	36.6	42.2	17.7	13.3	12.3	10.0
Medical, health care and welfare	100.0	43.3	35.9	8.3	12.9	5.5	10.6	37.8	5.1	41.9	26.3	12.4	53.0	6.0
Services (not elsewhere classified)	100.0	18.9	22.6	9.0	4.5	21.6	2.7	26.1	19.8	58.5	7.3	1.0	34.2	10.8

**2. Fixed-Term Employee**

(%)

	Total	To handle specialized tasks	To secure work-ready and skilled human resources	To have regular employees engage in more important and specialized tasks	To assess the person's abilities when aiming to hire as a regular employee	To adjust headcount in response to economic climate fluctuation	To address a long business (operation) hours	To address the business fluctuation within a day or week	To address the temporary / seasonal change in work volume	To reduce labor costs	Unable to secure regular employees	To replace a regular employee on childcare leave	To meet the needs of the worker	Other
Total	100.0	38.7	36.8	15.7	21.6	15.4	5.9	5.7	10.0	36.3	11.4	5.5	14.3	11.2
Manufacturing industry	100.0	29.1	38.2	17.2	22.5	26.7	6.6	4.2	11.3	37.5	12.6	1.1	11.3	10.2
Consumer related manufacturing	100.0	36.4	40.9	25.1	15.8	11.3	9.0	9.0	9.0	40.9	6.9	2.4	6.9	11.3
Materials related manufacturing	100.0	33.3	44.3	14.7	25.9	33.3	3.7	3.7	5.6	37.1	7.5	1.9	7.5	13.1
Machinery related manufacturing	100.0	22.1	29.4	14.7	23.5	30.9	7.4	1.5	17.6	36.8	19.1	-	17.6	7.4
Information and communications	100.0	45.0	25.1	20.0	30.0	20.0	-	5.0	5.0	20.0	-	-	15.0	5.0
Transport and postal activities	100.0	30.2	30.2	21.3	36.4	9.2	12.1	3.0	9.2	48.5	15.1	-	12.1	3.0
Retail	100.0	23.2	56.6	23.2	16.8	10.1	6.7	-	3.4	46.8	10.1	-	10.1	-
Financing and insurance	100.0	57.9	31.5	42.1	15.8	-	5.1	5.1	-	26.4	-	5.1	57.9	-
Accommodations, eating and drinking services	100.0	33.3	55.5	11.2	27.7	11.2	22.1	11.2	11.2	27.7	11.2	-	-	5.6
Education and learning support	100.0	57.7	39.5	18.3	19.7	4.3	-	4.3	14.1	36.7	16.9	14.1	5.6	11.2
Medical, health care and welfare	100.0	47.8	33.3	11.1	28.9	6.7	6.7	13.3	7.8	31.1	18.9	17.8	22.2	14.4
Services (not elsewhere classified)	100.0	39.6	31.9	8.9	13.2	17.5	5.5	4.3	16.5	37.4	12.0	-	19.9	17.5

**Table 4 Reasons for Hiring and Job Assignment Categorized by Hiring/Employment Type (Multiple Answers) (continuation)**

**3. Dispatched Worker** (%)

	Total	To handle specialized tasks	To secure work-ready and skilled human resources	To have regular employees engage in more important and specialized tasks	To assess the person's abilities when aiming to hire as a regular employee	To adjust headcount in response to economic climate fluctuation	To address a long business (operation) hours	To address the business fluctuation within a day or week	To address the temporary / seasonal change in work volume	To reduce labor costs	Unable to secure regular employees	To replace a regular employee on childcare leave	To meet the needs of the worker	Other
Total	100.0	30.2	29.9	17.4	3.5	27.0	4.0	8.0	25.7	32.6	14.7	19.5	8.3	5.1
Manufacturing industry	100.0	28.7	27.0	17.0	3.3	48.7	4.7	4.7	28.4	38.7	12.8	15.6	5.6	2.8
Consumer related manufacturing	100.0	28.8	27.0	11.6	3.8	40.4	9.6	7.6	25.0	34.6	9.6	11.6	3.8	7.6
Materials related manufacturing	100.0	27.3	28.8	16.6	6.1	50.0	4.6	4.6	28.8	43.9	9.2	18.1	4.6	-
Machinery related manufacturing	100.0	30.1	24.7	20.4	1.1	52.7	2.2	3.2	30.1	36.6	17.2	15.1	7.5	2.2
Information and communications	100.0	34.7	30.4	30.4	4.3	21.8	-	4.3	26.1	30.4	17.4	13.1	13.1	-
Transport and postal activities	100.0	6.5	20.1	6.5	-	46.7	13.0	6.5	13.0	33.1	20.1	13.0	6.5	6.5
Retail	100.0	36.2	40.8	9.2	4.6	13.8	4.6	9.2	4.6	13.8	18.3	13.8	4.6	9.2
Financing and insurance	100.0	43.5	30.5	47.7	8.8	8.8	-	21.8	34.7	47.7	8.8	4.2	47.7	4.2
Accommodations, eating and drinking services	100.0	7.7	22.9	7.7	-	22.9	30.6	61.3	22.9	22.9	7.7	-	7.7	7.7
Education and learning support	100.0	34.5	28.9	25.1	-	3.8	-	7.7	38.4	34.5	11.5	38.4	2.0	5.9
Medical, health care and welfare	100.0	26.9	22.4	9.0	6.0	9.0	4.5	11.9	4.5	26.9	32.8	23.9	4.5	7.5
Services (not elsewhere classified)	100.0	37.2	31.2	17.5	2.1	15.8	-	7.7	17.5	31.2	11.9	13.7	6.0	11.9

Source: JILPT's "Survey on the Current Conditions of Employment of Workers with Diverse Employment Types" (Establishment Survey) (Implemented in 2010).

**Table 5 Problem in Hiring and Using Non-regular Employees (Multiple Answers)**

	Total	Cannot secure high quality human resources	Low retention rate	Little sense of job responsibility and motivation toward advancement	Difficulty with managing interpersonal relationship at workplace or teamwork	Difficulty in accumulating information and skills	Difficulty in conveying customers' needs necessary to project planning and improvement	Other	Not really a problem	Cannot secure high quality human resources	Low retention rate	Little sense of job responsibility and motivation toward advancement	Difficulty with managing interpersonal relationship at workplace or teamwork	Difficulty in accumulating information and skills	Difficulty in conveying customers' needs necessary to project planning and improvement	Other	Not really a problem
		<b>Open-ended / Fixed-Term Part-Time Worker</b>								<b>Fixed-Term Employee</b>							
Total	100.0	17.7	12.4	24.2	7.6	10.5	2.4	4.8	54.8	13.9	7.2	19.6	6.7	8.2	1.8	3.6	61.6
Manufacturing industry	100.0	17.2	8.8	20.4	7.4	10.1	2.2	0.9	63.9	17.9	7.6	22.4	7.6	13.6	1.9	5.7	55.2
Consumer related manufacturing	100.0	32.4	17.6	28.4	9.4	5.3	5.3	1.4	48.6	27.0	10.7	29.8	5.3	13.5	5.3	5.3	48.6
Materials related manufacturing	100.0	11.0	4.7	17.1	6.3	7.9	1.6	1.6	71.9	14.7	3.7	22.1	3.7	7.5	1.9	7.5	57.3
Machinery related manufacturing	100.0	6.8	4.1	16.2	6.8	17.6	-	-	71.6	14.3	9.5	19.0	12.7	19.0	-	4.8	57.1
Information and communications	100.0	-	-	27.3	9.0	9.0	-	-	72.7	-	5.2	10.6	15.8	-	-	-	79.0
Transport and postal activities	100.0	17.8	17.8	20.0	6.7	6.7	2.2	4.3	57.7	23.4	13.4	19.9	13.4	3.3	-	6.5	56.7
Retail	100.0	38.5	20.5	39.8	10.2	12.8	8.9	5.2	38.5	34.6	4.4	39.0	13.2	8.8	8.8	-	52.2
Financing and insurance	100.0	4.9	-	9.8	2.4	4.9	2.4	-	80.5	-	-	53.0	-	5.7	5.7	-	41.2
Accommodations, eating and drinking services	100.0	32.3	38.3	32.3	14.7	11.7	5.9	3.0	26.4	17.5	23.5	5.9	5.9	-	-	-	58.8
Education and learning support	100.0	5.7	3.5	14.8	1.2	9.1	-	21.6	58.0	2.9	2.9	11.7	2.9	13.3	-	10.3	64.7
Medical, health care and welfare	100.0	20.0	13.2	32.2	7.3	12.7	2.4	9.3	42.0	11.0	11.0	19.5	9.8	4.9	1.2	3.7	58.5
Services (not elsewhere classified)	100.0	25.0	23.2	25.9	8.3	11.1	1.8	1.8	52.7	23.3	10.4	18.5	7.1	7.1	3.5	2.3	59.4

	Total	Cannot secure high quality human resources	Low retention rate	Little sense of job responsibility and motivation toward advancement	Difficulty with managing interpersonal relationship at workplace or teamwork	Difficulty in accumulating information and skills	Difficulty in conveying customers' needs necessary to project planning and improvement	Other	Not really a problem
		<b>Dispatched Worker</b>							
Total	100.0	13.8	14.1	17.0	10.7	19.3	3.2	3.7	53.3
Manufacturing industry	100.0	20.0	21.5	22.1	15.6	25.0	4.1	4.1	48.4
Consumer related manufacturing	100.0	15.8	9.0	25.1	15.8	29.6	6.9	2.4	47.8
Materials related manufacturing	100.0	28.1	21.9	25.0	15.6	17.1	3.1	6.3	51.6
Machinery related manufacturing	100.0	16.5	27.5	18.7	15.4	28.6	3.3	3.3	46.2
Information and communications	100.0	4.3	8.8	13.1	-	13.1	-	4.3	73.9
Transport and postal activities	100.0	15.1	23.3	23.3	30.8	7.5	-	7.5	38.4
Retail	100.0	14.4	4.8	14.4	4.8	19.2	9.6	-	52.4
Financing and insurance	100.0	-	-	34.7	4.2	13.0	4.2	4.2	47.7
Accommodations, eating and drinking services	100.0	22.4	-	33.2	11.2	11.2	11.2	-	44.4
Education and learning support	100.0	2.2	6.3	14.7	10.5	18.8	-	10.5	58.4
Medical, health care and welfare	100.0	19.0	20.7	17.2	6.9	20.7	3.4	5.2	36.2
Services (not elsewhere classified)	100.0	12.4	6.2	8.0	10.2	16.4	2.2	2.2	59.1

Source: JILPT's "Survey on the Current Conditions of Employment of Workers with Diverse Employment Types" (Establishment Survey) (Implemented in 2010).

**Table 6 Reasons for Choosing the Employment Type of Non-Regular Employment (Multiple Answers)**

	Total	Want to work during hours that suit my convenience	Want to utilize a specialized knowledge and/or skill	The work is easy	Short working hours / days of the week	Easy commute	Not bound by the organization	No relocation	The potential to become a regular employee / worker after working for a period of time	Unable to work as a regular employee due to household matter, childcare, nursing care, etc.	Physically difficult to work as a regular employee/worker	Lack the opportunity to work as a regular employee/worker	Other	No response	
Total	100.0	24.6	9.9	4.1	13.8	13.5	5.4	6.1	9.4	16.1	5.0	25.6	20.8	7.0	
Gender / Age	Male / Age 29 and under	100.0	16.4	6.7	3.6	4.6	7.7	4.6	5.1	42.1	1.0	1.5	25.6	15.9	4.1
	Male / Age 30-39	100.0	15.9	17.3	3.4	2.4	6.7	5.3	5.8	34.1	1.9	1.4	29.3	15.9	6.3
	Male / Age 40-49	100.0	8.8	9.6	5.6	4.8	6.4	11.2	7.2	21.6	1.6	2.4	33.6	17.6	4.8
	Male / Age 50-59	100.0	6.8	14.8	3.4	4.5	11.9	6.3	6.8	7.4	2.3	5.1	36.4	27.8	10.2
	Male / Age 60 and over	100.0	12.7	23.4	7.6	10.7	10.4	4.7	6.2	0.3	0.3	3.9	9.8	40.0	13.8
	Female / Age 29 and under	100.0	23.9	7.8	3.4	9.7	11.0	6.7	8.0	20.5	12.2	1.8	32.9	18.9	2.1
	Female / Age 30-39	100.0	28.2	7.2	2.7	14.4	10.1	5.6	5.3	9.8	31.5	5.7	29.3	16.1	3.6
	Female / Age 40-49	100.0	35.1	6.0	2.8	19.9	15.8	5.2	6.7	4.8	29.3	5.3	28.4	14.6	3.6
	Female / Age 50-59	100.0	29.3	5.9	3.8	19.3	20.2	5.3	5.7	2.9	15.0	8.4	26.0	19.5	8.0
	Female / Age 60 and over	100.0	23.6	8.2	7.5	17.7	22.6	4.3	4.6	1.0	6.2	5.9	14.4	24.9	15.7
Employment Type	Part-time workers	100.0	39.0	7.0	5.3	23.0	18.3	5.8	6.4	3.7	28.6	7.7	20.8	10.9	6.2
	Temporary workers	100.0	38.2	6.9	4.3	13.2	13.8	7.9	9.9	9.5	8.9	3.0	24.0	16.8	5.3
	Contract employees	100.0	8.9	9.3	2.8	4.7	9.6	4.8	5.7	20.9	5.5	1.8	37.1	24.1	5.9
	Entrusted employees	100.0	6.5	19.1	3.3	4.7	6.5	3.5	4.7	8.8	2.5	4.3	20.6	38.7	10.7
	Dispatched workers from temp agency	100.0	11.0	13.4	4.1	6.4	13.4	9.9	8.1	9.3	8.1	1.7	34.9	30.8	4.1
	Outsourcee company employees	100.0	7.2	17.4	4.3	2.9	10.1	4.3	4.3	7.2	2.9	-	20.3	30.4	18.8
	Other	100.0	11.4	12.5	1.0	7.3	8.0	4.5	3.1	10.0	7.3	3.5	27.0	38.8	9.0

Source: JILPT's "Survey on the Current Conditions of Employment of Workers with Diverse Employment Types" (Employee Survey) (Implemented in 2010).

**Table 7 Future Employment Desire Categorized by Employment Type**

	Total	Want to continue working at the present company following the same format	Want to work at another company, following the same format	Want to work at the present company, following another format	Want to work at another company, following another format	No response	
Total	100.0	67.6	5.6	8.7	13.5	4.6	
Employment Type	Regular employees/workers	100.0	73.8	6.6	5.1	11.3	3.2
	Other than regular employees/workers	100.0	59.4	4.3	13.5	16.6	6.2
	Part-time workers	100.0	63.9	4.5	9.9	14.8	7.0
	Temporary workers	100.0	55.6	0.7	12.5	26.6	4.6
	Contract employees	100.0	51.3	5.2	19.7	18.6	5.1
	Entrusted employees	100.0	65.8	3.3	13.7	10.2	6.9
	Dispatched workers from temp agency	100.0	41.9	7.0	20.3	27.3	3.5
	Outsourcee company employees	100.0	65.2	1.4	11.6	17.4	4.3
	Other	100.0	55.0	4.8	14.5	19.7	5.9

Source: JILPT's "Survey on the Current Conditions of Employment of Workers with Diverse Employment Types" (Employee Survey) (Implemented in 2010).

**Table 8 Presence / Absence of Non-Regular Employees who Perform the Same Job Duties as Regular Employees**

(%)

	Total	Open-ended / Fixed-Term Part-Time Worker		Fixed-Term Employee		Dispatched Worker	
		Present	Absent	Present	Absent	Present	Absent
Total	100.0	52.6	47.4	71.7	28.3	51.1	48.9
Manufacturing industry	100.0	50.0	50.0	74.5	25.5	57.9	42.1
Consumer related manufacturing	100.0	42.2	57.8	69.4	30.6	53.6	46.4
Materials related manufacturing	100.0	47.8	52.2	79.3	20.7	58.1	41.9
Machinery related manufacturing	100.0	59.7	40.3	74.6	25.4	60.7	39.3
Information and communications	100.0	25.0	75.0	72.2	27.8	45.0	55.0
Transport and postal activities	100.0	48.9	51.1	75.0	25.0	57.9	42.1
Retail	100.0	56.8	43.2	69.0	31.0	42.0	58.0
Financing and insurance	100.0	56.1	43.9	85.1	14.9	38.1	61.9
Accommodations, eating and drinking services	100.0	62.1	37.9	80.0	20.0	50.0	50.0
Education and learning support	100.0	21.4	78.6	51.3	48.7	22.6	77.4
Medical, health care and welfare	100.0	72.6	27.4	78.4	21.6	59.7	40.3
Services (not elsewhere classified)	100.0	50.9	49.1	74.8	25.2	63.9	36.1

Source: JILPT's "Survey on the Current Conditions of Employment of Workers with Diverse Employment Types" (Establishment Survey) (Implemented in 2010).

Note: The above excludes offices that do not have the relevant employment type and those without a response.

**Table 9 Standard Pay Scale Compared to Regular Employees with the Same Job Duties (hourly basis)**  
**—Companies with non-regular employees performing the same job duties as regular-employees—**

(%)

	Total	Open-ended / Fixed-Term Part-Time Worker								Fixed-Term Employee							
		Higher than regular employees	About the same as regular employees	90% of regular employees' wage	80% of regular employees' wage	70% of regular employees' wage	60% of regular employees' wage	50% or under 50% of regular employees' wage	No Response	Higher than regular employees	About the same as regular employees	90% of regular employees' wage	80% of regular employees' wage	70% of regular employees' wage	60% of regular employees' wage	50% or under 50% of regular employees' wage	No Response
Total	100.0	1.5	17.5	12.2	25.5	18.9	12.0	8.0	4.4	4.3	29.4	12.9	24.5	14.9	6.9	2.9	4.3
Manufacturing industry	100.0	-	6.1	7.9	33.3	21.9	16.7	8.8	5.3	6.9	18.3	11.5	25.2	17.6	10.7	4.6	5.3
Consumer related manufacturing	100.0	-	5.7	11.4	37.1	22.9	17.1	2.9	2.9	5.9	20.6	14.7	26.5	17.6	5.9	5.9	2.9
Materials related manufacturing	100.0	-	6.1	3.0	33.3	18.2	15.2	15.2	9.1	13.0	15.2	6.5	23.9	21.7	10.9	2.2	6.5
Machinery related manufacturing	100.0	-	7.0	9.3	27.9	23.3	18.6	9.3	4.7	2.0	20.0	14.0	26.0	12.0	14.0	6.0	6.0
Information and communications	100.0	-	-	-	-	-	66.7	33.3	-	15.4	38.5	-	15.4	23.1	7.7	-	-
Transport and postal activities	100.0	9.1	31.8	9.1	27.3	9.1	4.5	9.1	-	4.2	41.7	25.0	12.5	4.2	4.2	4.2	4.2
Retail	100.0	-	14.3	7.1	33.3	23.8	16.7	2.4	2.4	-	20.0	25.0	30.0	25.0	-	-	-
Financing and insurance	100.0	-	4.3	30.4	-	21.7	34.8	8.7	-	-	76.5	5.9	11.8	5.9	-	-	-
Accommodations, eating and drinking services	100.0	11.1	22.2	16.7	33.3	11.1	5.6	-	-	18.8	25.0	12.5	37.5	6.3	-	-	-
Education and learning support	100.0	-	27.8	-	11.1	11.1	5.6	22.2	22.2	-	43.6	7.7	15.4	10.3	12.8	2.6	7.7
Medical, health care and welfare	100.0	2.0	26.3	14.6	29.1	15.2	4.6	6.0	2.0	1.4	27.5	18.8	27.5	13.0	2.9	2.9	5.8
Services (not elsewhere classified)	100.0	-	16.7	13.0	16.7	25.9	11.1	13.0	3.7	4.4	29.4	13.2	20.6	4.4	1.5	5.9	

Source: JILPT's "Survey on the Current Conditions of Employment of Workers with Diverse Employment Types" (Establishment Survey) (Implemented in 2010).

**Table 10 Reasons for the Discrepancy in Wages between Regular and Non-Regular Employees from the Company's Perspective (Multiple Answers)  
—Companies whose non-regular employees have a lower wage standard than regular employees—**

(%)

	Total	Different level of job responsibility	Exempted from overtime work	No change of duty assignment	No transfer to other business locations	No relocation following one's own change of address	Different years of employment	Difference in mid to long range job role expectation	Performs job function that is partially different than regular employees	Other	It is hard to say	No response
Total	100.0	68.3	9.2	11.5	19.7	14.4	16.3	33.6	33.6	17.4	8.1	2.1
Manufacturing industry	100.0	67.9	2.4	12.1	18.8	18.8	15.2	40.6	31.5	16.4	9.1	3.0
Consumer related manufacturing	100.0	73.5	6.1	16.3	16.3	20.4	12.2	28.6	40.8	14.3	10.2	6.1
Materials related manufacturing	100.0	66.7	2.0	17.6	15.7	9.8	13.7	39.2	33.3	17.6	9.8	2.0
Machinery related manufacturing	100.0	64.5	-	4.8	22.6	24.2	17.7	53.2	22.6	16.1	8.1	1.6
Information and communications	100.0	80.0	-	10.0	30.0	30.0	10.0	50.0	30.0	-	-	-
Transport and postal activities	100.0	56.5	8.7	21.7	30.4	17.4	17.4	21.7	39.1	8.7	21.7	-
Retail	100.0	74.4	4.7	14.0	39.5	39.5	9.3	39.5	41.9	16.3	-	-
Financing and insurance	100.0	91.7	8.3	4.2	12.5	16.7	16.7	37.5	58.3	8.3	-	-
Accommodations, eating and drinking services	100.0	77.8	-	16.7	27.8	5.6	16.7	38.9	50.0	5.6	-	-
Education and learning support	100.0	66.7	8.3	8.3	8.3	4.2	29.2	37.5	37.5	20.8	12.5	-
Medical, health care and welfare	100.0	68.0	18.9	4.9	17.2	4.1	15.6	19.7	26.2	24.6	10.7	1.6
Services (not elsewhere classified)	100.0	63.4	5.6	15.5	15.5	9.9	16.9	38.0	28.2	15.5	5.6	4.2

Source: JILPT's "Survey on the Current Conditions of Employment of Workers with Diverse Employment Types" (Establishment Survey) (Implemented in 2010).

**Table 11 Job Duties Categorized by Department (Industry Total/Offices with Relevant Departments)**

		(%)							
	Total	Administrative duties	Project planning	Highly specialized duties	Decision-making duties	Routine duties	Supportive role	Other duties	No relevant employment type/no response
<b>Clerical and Planning Department</b>									
Regular employees	100.0	89.8	62.1	41.9	71.3	70.2	42.5	29.5	4.9
Open-ended/Fixed-term part-time workers	100.0	3.5	1.2	2.1	3.2	26.2	32.6	11.8	59.2
Fixed-term employees	100.0	4.6	3.4	4.0	5.0	19.4	17.2	7.8	74.1
Dispatched workers	100.0	1.6	0.6	2.8	1.4	17.1	19.2	5.0	74.2
<b>Development and Technical Department</b>									
Regular employees	100.0	83.1	73.3	77.9	77.3	66.0	45.0	29.6	5.6
Open-ended/Fixed-term part-time workers	100.0	0.8	1.0	2.3	2.1	14.2	19.0	6.5	76.3
Fixed-term employees	100.0	3.5	3.5	8.8	3.5	13.8	12.9	4.4	76.7
Dispatched workers	100.0	0.6	0.4	9.4	2.5	15.2	15.8	3.3	75.0
<b>Field Work Department</b>									
Regular employees	100.0	74.5	38.8	51.9	65.2	69.3	42.3	24.8	10.0
Open-ended/Fixed-term part-time workers	100.0	2.8	1.1	6.3	6.3	40.4	39.1	13.2	47.4
Fixed-term employees	100.0	4.2	1.7	7.0	8.3	30.1	24.5	8.5	63.7
Dispatched workers	100.0	1.1	0.5	1.8	2.2	19.5	17.2	4.8	74.4
<b>Sales and Marketing Department</b>									
Regular employees	100.0	85.2	63.7	42.6	75.8	66.9	39.5	26.3	6.3
Open-ended/Fixed-term part-time workers	100.0	2.8	1.5	1.4	2.8	22.6	24.8	7.8	69.9
Fixed-term employees	100.0	3.7	3.1	2.9	4.5	15.3	13.4	5.9	79.4
Dispatched workers	100.0	0.6	0.4	1.2	1.3	12.4	13.4	2.2	82.5
<b>Other Department</b>									
Regular employees	100.0	62.0	41.7	50.1	53.1	49.0	33.0	38.9	24.2
Open-ended/Fixed-term part-time workers	100.0	4.3	2.8	10.8	5.4	29.6	35.6	24.0	48.2
Fixed-term employees	100.0	4.5	3.9	13.8	7.8	18.1	17.5	13.8	68.3
Dispatched workers	100.0	1.1	0.6	3.2	1.9	13.6	14.5	7.6	79.7

Source: JILPT's "Survey on the Current Conditions of Employment of Workers with Diverse Employment Types" (Establishment Survey) (Implemented in 2010).

**Table 12 Handling of Employment Contract Renewal when the Contract Expires  
- by Department (for Companies with Relevant Departments) -**

(%)

	Total	Fixed-Term Part-time Worker				Fixed-Term Employee				
		Will in principle renew the contract	Will renew up to the maximum renewable number of terms	Will in principle not renew the contract	It is hard to say	Will in principle renew the contract	Will renew up to the maximum renewable number of terms	Will in principle not renew the contract	It is hard to say	
Clerical and Planning Department	Industry total	100.0	76.9	12.2	1.0	9.8	65.2	19.7	1.3	13.7
	Manufacturing	100.0	80.9	6.0	1.9	11.2	51.9	25.2	1.4	21.5
	Information and communications	100.0	50.0	29.9	-	20.1	54.5	27.2	-	18.3
	Transport and postal services	100.0	86.9	6.5	-	6.5	84.9	15.1	-	-
	Retail	100.0	96.9	-	-	3.1	94.0	-	-	6.0
	Financing and insurance	100.0	97.0	-	-	3.0	94.2	-	-	5.8
	Accommodations, eating and drinking services	100.0	81.7	-	-	18.3	81.7	-	-	18.3
	Education and learning support	100.0	40.0	44.2	-	15.7	22.0	63.9	4.0	10.1
	Medical, healthcare and welfare	100.0	88.2	3.5	2.4	5.9	76.7	5.0	1.7	16.7
Services (not elsewhere classified)	100.0	84.1	6.9	-	8.9	75.1	10.9	-	13.9	
Development and Technical Department	Industry total	100.0	73.4	11.7	2.1	12.8	62.1	18.4	1.0	18.4
	Manufacturing	100.0	78.7	7.5	2.9	10.9	52.8	20.1	1.9	25.2
	Information and communications	100.0	33.3	33.3	-	33.3	50.0	37.6	-	12.4
	Transport and postal services	100.0	-	-	-	100.0	50.0	50.0	-	-
	Retail	100.0	100.0	-	-	-	100.0	-	-	-
	Financing and insurance	100.0	100.0	-	-	-	50.0	-	-	50.0
	Accommodations, eating and drinking services	100.0	100.0	-	-	-	100.0	-	-	-
	Education and learning support	100.0	33.0	58.3	-	8.7	10.4	79.2	-	10.4
	Medical, healthcare and welfare	100.0	81.8	4.5	4.5	9.1	80.0	5.0	-	15.0
Services (not elsewhere classified)	100.0	82.0	-	-	18.0	68.5	6.7	-	24.7	
Field Work Department	Industry total	100.0	84.2	6.5	0.8	8.5	65.7	18.5	0.9	14.8
	Manufacturing	100.0	83.5	6.1	0.8	9.6	54.3	24.4	2.3	19.0
	Information and communications	100.0	42.9	42.9	-	14.2	44.5	44.5	-	11.0
	Transport and postal services	100.0	86.6	8.9	-	4.5	76.4	23.6	-	-
	Retail	100.0	100.0	-	-	-	100.0	-	-	-
	Financing and insurance	100.0	100.0	-	-	-	50.0	-	-	50.0
	Accommodations, eating and drinking services	100.0	100.0	-	-	-	100.0	-	-	-
	Education and learning support	100.0	74.8	16.5	-	8.7	36.2	36.2	-	27.6
	Medical, healthcare and welfare	100.0	92.1	2.6	1.3	3.9	85.4	4.9	-	9.8
Services (not elsewhere classified)	100.0	83.0	5.2	-	11.8	69.1	15.5	-	15.5	
Sales and Marketing Department	Industry total	100.0	82.5	5.2	1.3	11.0	72.7	12.9	0.8	13.6
	Manufacturing	100.0	77.4	4.3	4.3	13.9	60.9	16.5	-	22.6
	Information and communications	100.0	33.5	50.0	-	16.5	55.7	33.3	-	11.0
	Transport and postal services	100.0	80.4	19.6	-	-	89.1	10.9	-	-
	Retail	100.0	92.4	-	-	7.6	95.8	-	-	4.2
	Financing and insurance	100.0	93.5	-	-	6.5	59.8	-	-	40.2
	Accommodations, eating and drinking services	100.0	89.4	-	-	10.6	83.2	8.4	-	8.4
	Education and learning support	100.0	79.7	13.3	-	7.0	28.4	56.7	-	14.9
	Medical, healthcare and welfare	100.0	88.9	-	5.6	5.6	87.5	-	-	12.5
Services (not elsewhere classified)	100.0	79.2	-	-	20.8	79.1	8.2	-	12.7	
Other Department	Industry total	100.0	77.0	8.0	0.6	14.4	61.3	19.4	1.6	17.7
	Manufacturing	100.0	81.6	7.8	-	10.7	56.8	16.0	-	27.2
	Information and communications	100.0	60.3	19.9	-	19.9	50.0	16.5	-	33.5
	Transport and postal services	100.0	75.3	12.4	-	12.4	75.6	24.4	-	-
	Retail	100.0	100.0	-	-	-	100.0	-	-	-
	Financing and insurance	100.0	100.0	-	-	-	50.0	-	-	50.0
	Accommodations, eating and drinking services	100.0	74.9	-	-	25.1	88.8	-	-	11.2
	Education and learning support	100.0	45.3	35.8	-	19.0	23.8	55.2	5.2	15.7
	Medical, healthcare and welfare	100.0	86.7	1.1	2.2	10.0	79.6	4.1	2.0	14.3
Services (not elsewhere classified)	100.0	92.1	-	-	7.9	68.2	15.9	-	15.9	

Source: JILPT's "Survey on the Current Conditions of Employment of Workers with Diverse Employment Types" (Establishment Survey) (Implemented in 2010).

Note: The above excludes offices that do not have the relevant employment type and those without a response.

**Table 13 Fluctuation Index of Sales and Employment in Most Recent Three Years(Weighted Average of Composition Ratio based on Class Value)**

	Sales	Regular employee	Fixed-term part-time worker	Fixed-Term employee	Entrusted employee	Dispatched worker	Outsourcee company employee
Industry Total	94.8	99.9	100.5	102.9	106.4	94.3	100.4
Construction	89.3	96.5	101.6	96.1	110.2	97.8	99.0
Manufacturing	87.4	98.1	97.6	103.0	107.6	88.6	98.9
Consumer related manufacturing	92.5	98.2	98.5	103.4	108.1	93.3	99.7
Materials related manufacturing	87.0	98.5	96.5	105.0	107.6	88.4	102.2
Machinery related manufacturing	82.4	97.6	97.7	101.3	106.6	85.3	94.7
Electricity, gas, heat supply and water	102.6	101.0	95.8	100.0	103.1	100.6	100.0
Information and Communications	87.6	98.3	98.8	99.7	103.4	98.8	99.0
Transport and postal services	91.7	99.7	103.4	99.7	105.3	96.3	98.4
Wholesale	91.5	99.3	93.7	95.2	99.9	93.6	102.5
Retail	95.4	95.8	98.0	101.0	102.9	95.7	110.8
Financing and insurance	96.7	101.8	96.0	108.9	111.0	91.3	107.5
Real estate and goods rental and leasing	110.2	108.4	98.0	95.5	100.8	96.2	100.0
Academic research, specialized and technological service	92.6	104.3	100.0	109.8	111.4	95.5	99.3
Accommodations, eating and drinking services	97.0	100.6	104.1	100.4	108.2	92.3	97.0
Living related service	92.8	98.0	100.0	104.0	102.5	107.5	-
Entertainment	92.9	95.4	96.1	100.0	122.5	100.0	-
Education and learning support	95.5	98.4	105.6	110.8	103.7	104.0	104.1
Medical, healthcare and welfare	108.4	105.4	104.6	102.0	107.1	98.1	103.6
Compound services	93.4	97.5	106.0	101.9	105.8	97.1	100.0
Services industry (not elsewhere classified)	98.0	100.4	98.6	101.4	105.2	97.5	95.6
Other	98.8	99.7	102.3	103.8	108.2	96.9	104.5
No response	89.2	104.8	107.0	107.5	102.4	95.8	101.3

Source: JILPT's "Survey on the Current Conditions of Employment of Workers with Diverse Employment Formats" (Establishment Survey) (Implemented in 2010).

Note: 1. The above shows the weighted average of each class value using the composition ratio for the survey response ranking the standard index of the most recent business year or July 2010, assuming the sales from 3 years ago and the employment volume of each employment format has an index value of 100. This table shows to which side is the business leaning in terms of an increase/decrease trend. It does not directly indicate the quantitative increase/decrease ratio.

2. "Weighted average based on class value" of sales is calculated with the exclusion of "the office did not exist 3 years ago" and "no response."

3. "Weighted average based on class value" of employment is calculated with the exclusion of "they are not currently in the office, nor were they 3 years ago" and "no relevant type of employment or no response."

**Table 14 Index of Future Fluctuation Forecast on Employment of Workers and Number of Employees by Employment Format**

(Points)

	Regular employee	Open-ended part-time worker	Fixed-term part-time worker	Fixed-term employee	Entrusted employee	Temporary worker	Dispatched worker	Outsourcee company employee
Industry Total	98.9	99.3	99.5	99.7	101.7	98.9	95.7	98.2
Construction	98.2	100.0	96.2	95.6	103.1	102.0	97.4	100.0
Manufacturing	98.4	97.7	98.3	99.0	101.7	99.4	95.2	97.9
Consumer related manufacturing	99.7	97.8	99.8	99.4	100.5	100.0	94.4	97.2
Materials related manufacturing	98.7	96.6	95.3	100.4	103.3	100.0	95.9	98.9
Machinery related manufacturing	96.8	98.1	99.2	97.8	101.0	98.6	95.2	97.4
Electricity, gas, heat supply and water	98.8	100.0	100.0	98.0	102.8	100.0	96.7	100.0
Information and Communications	99.1	100.0	97.3	101.1	98.2	90.0	96.1	100.8
Transport and postal services	97.9	100.8	101.5	102.6	102.8	100.0	96.0	96.3
Wholesale	98.4	99.4	97.4	96.3	100.5	100.0	94.8	96.3
Retail	96.4	96.1	98.9	99.3	100.3	92.9	94.6	101.7
Financing and insurance	98.7	98.5	97.0	103.0	100.3	96.0	92.1	100.0
Real estate and goods rental and leasing	105.0	-	104.0	102.5	100.0	-	100.0	100.0
Academic research, specialized and technological services	97.0	100.0	98.4	98.0	105.4	100.0	96.0	91.4
Accommodations, eating and drinking services	99.5	100.0	101.4	99.4	103.5	100.0	93.8	100.0
Living related services	97.8	100.0	100.0	98.0	90.0	100.0	95.0	-
Entertainment	97.1	100.0	104.5	100.0	105.0	-	100.0	-
Education and learning support	97.2	97.8	100.7	100.5	102.2	98.5	96.2	101.4
Medical, healthcare and welfare	102.7	101.9	101.2	101.3	101.9	98.7	96.3	98.3
Compound services	96.7	97.6	100.6	99.4	103.6	96.6	99.0	90.0
Services industry (not elsewhere classified)	98.8	97.2	98.7	99.6	101.3	99.5	94.3	94.4
Other	97.9	104.1	101.3	99.2	100.4	98.0	99.1	98.6
No response	102.5	110.0	105.0	102.5	102.8	100.0	100.0	102.5

Source: JILPT's "Survey on the Current Conditions of Employment of Workers with Diverse Employment Formats" (Establishment Survey) (Implemented in 2010).

Note: The above reflects the weighted averages of the composition ratio for the "estimation index," which is set at 120 for "increases quite a bit," 110 for "increases somewhat," 100 for "stays roughly the same," 90 for "decreases somewhat," and 80 for "decreases quite a bit," excluding "not currently nor in the future" and "no response." Therefore, there is no tendency for an increase or decrease beyond the extent of those shown above.

# Non-Regular Employment in the United Kingdom

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## Abstract

There has been a great deal of academic and policy interest in non-regular employment in the UK since the early 1980s. Generated by structural employment changes in response to the 1980s recession, subsequent economic downturns both boosted the numbers of non-regular workers and interest in the characteristics of non-regular work and its outcomes. In the UK these changes have occurred within a lightly regulated labour market, although this has not led to a high use of non-regular employment. It is argued that there is often little to gain by employers since regular employment faces relatively low costs compared to most other industrialised economies. The paper begins by examining this regulatory context, the implications for the protection of non-regular workers and the gaps in current employment legislation. It then explores patterns of non-regular work. Temporary, part-time and self-employed arrangements are the focus but these are highly variegated employment forms, as the analysis demonstrates. Next transitions between non-regular and permanent work are considered: do these jobs lead to more stable work? Do non-regular workers *want* more permanent jobs? The final section examines the question of equal treatment of non-regular workers. Non-regular jobs are very often bad jobs in the UK (as are many permanent, regular jobs) and there has been some attempt to address this through regulation by the European Union. Overall, the paper finds no strong trend towards more non-regular work in the UK. Part-time working has been slowly rising for three decades, temporary employment is highly cyclical and self-employment relatively stable. The paper concludes that there is, however, a need to address equality issues.

## 1. Introduction

Academic and policy interest in non-regular employment in the UK dates from the 1980s, when commentators suggested that against the backdrop of a deep recession employers were strategically segmenting their workforces into a 'core' and 'periphery' components. In the 1990s, again following a severe recession, attention turned to rising levels of insecurity amongst the workforce, particularly the relation with non-regular workers. In the first decade of the twenty-first century, and in the context of strong jobs growth, the focus shifted to the consequences of non-regular employment and the protection and equal treatment of non-regular workers. At the time of writing, the UK economy is beginning to see some recovery from the deep recession generated by the financial crisis of 2008 and there are some early indications that non-regular work is increasing once again. It is likely that in the coming years

non-regular work will be encouraged by the state as a solution to problems of high unemployment and low jobs growth.

Non-regular employment in the UK generally displays strong cyclical pattern. This is not to deny that there has been significant compositional change in terms of the incidence of non-regular employment across occupations or industries. It does, however, suggest two important issues: first, that there is no evidence of a strong secular shift to a greater use of non-regular employment in the UK and second, that given the cyclical nature of non-regular employment it is likely that there will be a temporary rise in such jobs as the economy begins to recover from the 2008-9 recession.

This paper seeks to sketch out the key aspects of non-regular work in the UK. It begins in section 2 by defining non-regular work and in particular the regulatory context. This is important since the relatively low growth in non-regular employment reflects the minimal regulation of regular employment in the UK. Section 3 examines patterns in non-regular employment. The paper then considers the extent to which non-regular workers can – and want to – make the transition to more permanent work in section 4. Section 5 considers outcomes along key dimension, to determine the degree of equality with permanent employees. Finally some conclusions are drawn.

## 2. Defining Non-Regular Employment in the UK

To define non-regular employment, it is necessary to identify ‘regular’ employment. In the UK context this is a permanent, full-time employee job, under contract to a firm. Consequently ‘non-regular’ captures any deviation from this and includes: temporary jobs, part-time and self-employed workers, which form the focus of this paper.

These non-regular forms are not mutually exclusive. Part-time workers can be permanent, temporary or self-employed, for example. Further, the temporary and self-employed categories are highly heterogeneous with a number of contractual forms included within them (for example temporary fixed term; temporary agency workers; freelance workers).

This variety stems, in part, from the fact that the UK retains a permissive hiring regime, despite the introduction of legislation to regulate some aspects of non-regular employment in the last 10 years (almost exclusively due to obligations as a member of the European Union). The UK is second only to the United States within major industrialised economies in terms of the ‘strictness’ of employment protection legislation for regular and non-regular workers (OECD, 2009). In the UK the overriding principle is that the parties to the employment relationship should be free to choose from a range of employment forms (Deakin and Reed, 2000). UK employers do not have to justify the use of part-time or fixed-term contracts nor are there currently any restrictions on temporary agency working.<sup>1</sup> Indeed, temporary agency workers are not even required to have employee status, which leads to vulnerability for these non-regular workers.

However, this has not led to a high incidence of non-regular employment in the UK. This is explained by the fact that employers have a wide margin of flexibility in the use of regular

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<sup>1</sup> Agency workers are entitled to basic employment rights as stipulated by the National Minimum Wage and the Working Time Regulations. However, agency workers are not currently entitled to equal treatment with comparable permanent workers, although the EU Agency Working Directive will, when implemented, extend rights for agency workers. It will provide them with equal treatment after 12 weeks continuous employment with a client firm (see BIS, 2010). It is due to be implemented in the UK in 2011.

workers without needing to use non-regular contracts. As Deakin and Reed (2000, p.124) note, the employment protection regulations that do exist are largely procedural rather than substantive. This further weakens any incentive to use non-regular employment since there are few costly obligations to evade.

Following European directives, part-time and fixed-term contract workers now have the right to the same treatment as full-time and permanent staff, and fixed-term staff cannot waive their rights to dismissal and redundancy protection. In addition, the Labour government introduced a National Minimum Wage in 1999 and reduced the qualifying period for unfair dismissal protection to one year for all employees, although redundancy compensation still only applies after two years' service. Despite these and other changes, critics have pointed to the 'minimalist' strategy underpinning the introduction of EU directives into UK law (Smith and Morton, 2006) and the fact that there is limited scope for collective, union representation to secure individual rights or indeed a well-resourced state infrastructure for enforcement of employment regulation (TUC, 2009).

Non-regular employment in the UK covers a wide variety of contract forms and not all non-regular workers are disadvantaged in the labour market. However, formal protection is uneven and is complicated by the complexity of employment rights and the distinction in law between 'employees' and 'workers'. This does not map neatly onto the regular/non-regular divide. Although regular workers tend to be employees, non-regular workers can take either, or indeed neither status, or it may be unclear.<sup>2</sup> Table A1 (Appendix) sets out the main differences between the employment rights of workers and employees. The remaining category of employment outside these two definitions are the self-employed (although some with this status do qualify as workers, confusingly, as discussed below) who enjoy little protection beyond basic health and safety.

The complexity of UK employment law is particularly important for temporary non-regular workers who are most likely to suffer abuse (TUC, 2009). Although fixed-term contract temporary work tends to lead to employee status, very often temporary agency and casual jobs are structured in such a way that individuals are entitled only to 'worker' status, and correspondingly weaker employment protection. Given the low pay in many of these jobs, this further compounds labour market disadvantage.

Problems can also emerge with 'self-employed' status. Recent evidence from the TUC (2009) notes that in many cases employers force workers to accept 'bogus' self-employed status. This is done by requiring workers to establish themselves as directors of a limited company in their own right and then to hire out their own services, through their own company, to the client. This is particularly common in the construction industry and in homeworking. In reality, they lack economic independence from the client and do not have autonomy over their work, meaning that they are not genuinely self-employed workers, rather they have the characteristics of an employee but none of the protection (see Burchell *et al.*, 1999; Böheim and Muehlberger, 2006; TUC, 2009). Indeed, research shows that these workers have distinct characteristics from employees and independent self-employed workers,

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<sup>2</sup> The status of 'worker' applies to individuals who supply their own personal services to the employer under an individual contract and are economically dependent on the employer's business (i.e. derive a high proportion of their income from that employment). As such, it encompasses employees (who are defined by an additional mutuality of obligation to provide and accept work) and accordingly this category potentially includes freelance workers, sole traders, homeworkers and casual workers of various kinds (see Burchell *et al.*, 1999). This is a wider definition than employee status and it applies under equal treatment legislation, the National Minimum Wage Act and Working Time Regulations.

with an increased likelihood of low education, low job tenure indicating job instability and, on average, they are older (Böheim and Muehlberger, 2006). Again, this research suggests that the gaps in UK labour law lead to a connection between vulnerable employment status and labour market disadvantage (see also TUC, 2009).

### 3. Patterns of Non-Regular Work

The UK economy has been highly volatile in the last 30 years, with three major recessions. This volatility has overlaid and exacerbated a longer-term of deindustrialisation. Competitive weaknesses and output instability have led to both relative and absolute declines in manufacturing employment. Against this, output and employment has been rising in the service sector. A major driver of employment since the 1990s were the financial and business services sectors. Some contribution has also been made by the distribution, catering and hotels sector and by 'other services' (cultural and leisure industries, membership organisations and personal care, including hairdressing) but a much greater increase came from the public-sector areas of public administration, health and education following a deliberate government strategy of expansion from 1997 (now reversed). Reflecting the property boom of the last decade, construction jobs also increased steadily up to 2008.

**Table 1 Employment, Self-Employment and Temporary Employment, UK 1992-2010**

<i>All Workers</i>		<i>As a proportion of total employment</i>							<i>%</i>	
<b>Total employment (millions)</b>		<b>All employees</b>	<b>All self employed</b>	<b>Full time employees</b>	<b>Full time self employed</b>	<b>Part time employees</b>	<b>Part time self employed</b>	<b>Workers with second job</b>	<b>Temporary employees</b>	
<b>1992</b>	24,914	86.3	13.7	65.8	11.3	20.5	2.4	3.8	6.0	
<b>1993</b>	24,831	86.3	13.7	65.3	11.1	21.0	2.6	4.4	6.5	
<b>1994</b>	25,117	85.9	14.1	64.8	11.4	21.2	2.7	4.7	7.2	
<b>1995</b>	25,477	86.1	13.9	64.6	11.2	21.5	2.7	5.1	7.4	
<b>1996</b>	25,776	86.3	13.7	64.3	10.9	22.0	2.8	4.8	7.6	
<b>1997</b>	26,272	86.9	13.1	64.9	10.3	22.0	2.9	4.7	7.8	
<b>1998</b>	26,615	87.6	12.4	65.5	9.8	22.1	2.7	4.6	7.4	
<b>1999</b>	26,947	87.9	12.1	65.9	9.3	22.0	2.8	4.6	7.0	
<b>2000</b>	27,278	88.1	11.9	65.6	9.4	22.5	2.6	4.3	6.9	
<b>2001</b>	27,524	88.0	12.0	65.8	9.4	22.2	2.6	4.0	6.7	
<b>2002</b>	27,800	87.9	12.1	65.3	9.2	22.6	2.9	4.2	6.6	
<b>2003</b>	28,043	87.0	13.0	64.5	10.0	22.5	3.1	4.0	6.4	
<b>2004</b>	28,273	87.2	12.8	64.7	9.9	22.5	2.9	3.7	6.2	
<b>2005</b>	28,640	87.3	12.7	65.2	9.8	22.1	2.9	3.7	5.7	
<b>2006</b>	28,875	86.9	13.1	64.6	10.0	22.3	3.1	3.7	5.9	
<b>2007</b>	29,101	86.8	13.2	65.1	10.0	21.8	3.2	3.8	5.8	
<b>2008</b>	29,154	87.0	13.0	64.9	9.9	22.1	3.1	3.8	5.4	
<b>2009</b>	28,719	86.5	13.5	63.6	10.1	23.0	3.4	4.0	5.8	
<b>2010</b>	28,892	86.3	13.7	62.9	10.2	23.3	3.6	3.8	6.4	

*Source:* Author's analysis of Labour Force Survey data, August-October various years.

**Table 2 Employment, Self-Employment and Temporary Employment by Gender, UK 1992-2010**

<i>Female Workers</i>		<i>As a proportion of total employment</i>							<i>%</i>	
	<b>Total employment (millions)</b>	<b>All employees</b>	<b>All self employed</b>	<b>Full time employees</b>	<b>Full time self employed</b>	<b>Part time employees</b>	<b>Part time self employed</b>	<b>Workers with second job</b>	<b>Temporary employees</b>	
<b>1992</b>	11,464	90.1	7.7	51.0	4.2	39.1	3.5	4.5	7.1	
<b>1993</b>	11,504	90.3	7.7	50.9	4.1	39.4	3.7	5.4	7.6	
<b>1994</b>	11,560	90.3	8.0	50.6	4.1	39.7	3.9	5.9	8.1	
<b>1995</b>	11,758	90.6	7.8	50.8	4.0	39.8	3.8	6.5	8.4	
<b>1996</b>	11,903	90.9	7.7	51.0	3.9	39.9	3.8	5.8	8.6	
<b>1997</b>	12,082	90.9	7.8	50.8	3.8	40.1	4.0	5.9	9.0	
<b>1998</b>	12,278	91.5	7.4	51.6	3.6	39.9	3.7	5.8	8.3	
<b>1999</b>	12,410	91.9	7.1	52.3	3.4	39.5	3.7	5.8	7.7	
<b>2000</b>	12,602	91.9	7.1	51.5	3.6	40.4	3.5	5.5	7.8	
<b>2001</b>	12,700	92.2	6.9	52.5	3.4	39.7	3.4	5.3	7.4	
<b>2002</b>	12,845	92.2	7.0	52.4	3.3	39.8	3.7	5.1	7.5	
<b>2003</b>	12,970	91.5	7.7	51.9	3.7	39.6	3.9	5.0	7.1	
<b>2004</b>	13,084	91.9	7.3	52.7	3.7	39.2	3.6	4.6	6.7	
<b>2005</b>	13,278	91.9	7.3	53.6	3.7	38.3	3.6	4.6	6.2	
<b>2006</b>	13,362	91.4	7.8	53.1	3.8	38.3	4.0	4.6	6.4	
<b>2007</b>	13,447	91.3	7.9	53.7	3.8	37.5	4.0	4.8	6.4	
<b>2008</b>	13,530	91.5	7.8	54.2	3.9	37.3	3.9	4.9	6.0	
<b>2009</b>	13,497	91.1	8.2	52.6	4.0	38.5	4.2	4.8	6.2	
<b>2010</b>	13,505	90.6	8.6	51.9	4.2	38.7	4.4	4.8	6.7	
<i>Male Workers</i>										
<b>1992</b>	13,990	79.9	18.0	75.4	16.6	4.5	1.4	3.1	5.1	
<b>1993</b>	13,816	79.9	18.2	74.9	16.6	5.0	1.6	3.5	5.5	
<b>1994</b>	14,001	79.6	18.7	74.4	17.0	5.2	1.6	3.6	6.4	
<b>1995</b>	14,111	79.9	18.6	74.3	16.9	5.7	1.7	3.8	6.5	
<b>1996</b>	14,217	80.4	18.3	73.9	16.5	6.5	1.8	3.8	6.6	
<b>1997</b>	14,522	81.6	17.2	75.1	15.4	6.5	1.9	3.7	6.8	
<b>1998</b>	14,600	82.7	16.4	75.9	14.7	6.8	1.7	3.5	6.6	
<b>1999</b>	14,802	82.9	16.1	76.1	14.1	6.8	2.0	3.5	6.4	
<b>2000</b>	14,925	83.4	15.8	76.4	14.0	7.0	1.8	3.2	6.0	
<b>2001</b>	15,034	83.2	16.2	76.0	14.3	7.1	1.8	2.9	6.0	
<b>2002</b>	15,151	83.1	16.2	75.4	14.1	7.7	2.2	3.4	5.7	
<b>2003</b>	15,279	81.9	17.4	74.3	15.1	7.7	2.3	3.1	5.7	
<b>2004</b>	15,412	82.0	17.3	74.0	15.1	8.0	2.2	2.9	5.7	
<b>2005</b>	15,556	82.3	17.1	74.3	14.9	8.0	2.3	2.9	5.2	
<b>2006</b>	15,711	81.9	17.4	73.5	15.0	8.4	2.4	2.9	5.4	
<b>2007</b>	15,862	82.0	17.5	73.8	15.0	8.2	2.4	2.9	5.2	
<b>2008</b>	15,821	82.1	17.2	73.2	14.8	8.9	2.4	2.9	4.8	
<b>2009</b>	15,408	81.5	17.9	72.4	15.4	9.1	2.6	3.2	5.4	
<b>2010</b>	15,620	81.2	18.0	71.5	15.1	9.7	2.8	3.0	6.0	

Source: Author's analysis of Labour Force Survey data, August-October various years.

It is against this backdrop that non-regular employment has evolved. The main trends are outlined in Table 1, showing the absolute number in work together with the share by employee, self-employed and temporary employee status together with the share of total employment accounted for by full and part time employee and self-employed workers. The

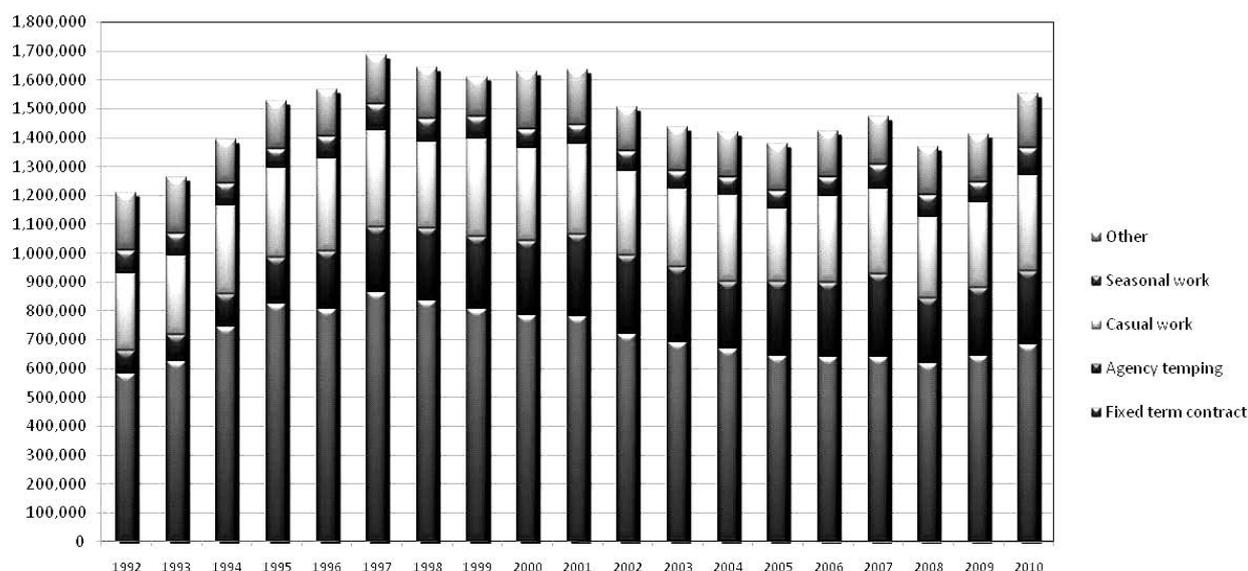
main trends are clear: part-time working is continuing a slow but steady increase, boosted by the latest recession and slow recovery, temporary working shows no secular trends (but is cyclical) and self-employment has been relatively stable. That said, analysis by gender indicates the rising importance of part-time working for men (nearly doubling its share of male work over the period, both employees and self-employed). For the UK, the picture is one of very slow change away from regular and towards non-regular working, with the main shift towards part-time work.

### 3.1 Temporary work

Temporary employment in the UK is highly cyclical. Figure 1 shows that it peaked in 1997 around 1.7 million workers (approximately 7% of all employee jobs). The decline from this peak has now been reversed and it appears that the pattern of the 1990s is being repeated with rises, particularly in fixed term, casual and agency working from 2009 as employment recovers and firms face uncertainty.

The classification of types of temporary working comes from the official Labour Force Survey (LFS), in which employees identify the reason for the temporary nature of their job as either: fixed term; a temporary agency job; a casual job; a seasonal job; or some other reason. Inspection of the data indicate that the decline in temporary work was largely due to falling numbers of fixed-term workers. Against this, temporary agency working has continued to increase, more markedly since the 2008 recession.

**Figure 1 Temporary employment by type, all employees, UK 1992 to 2010**



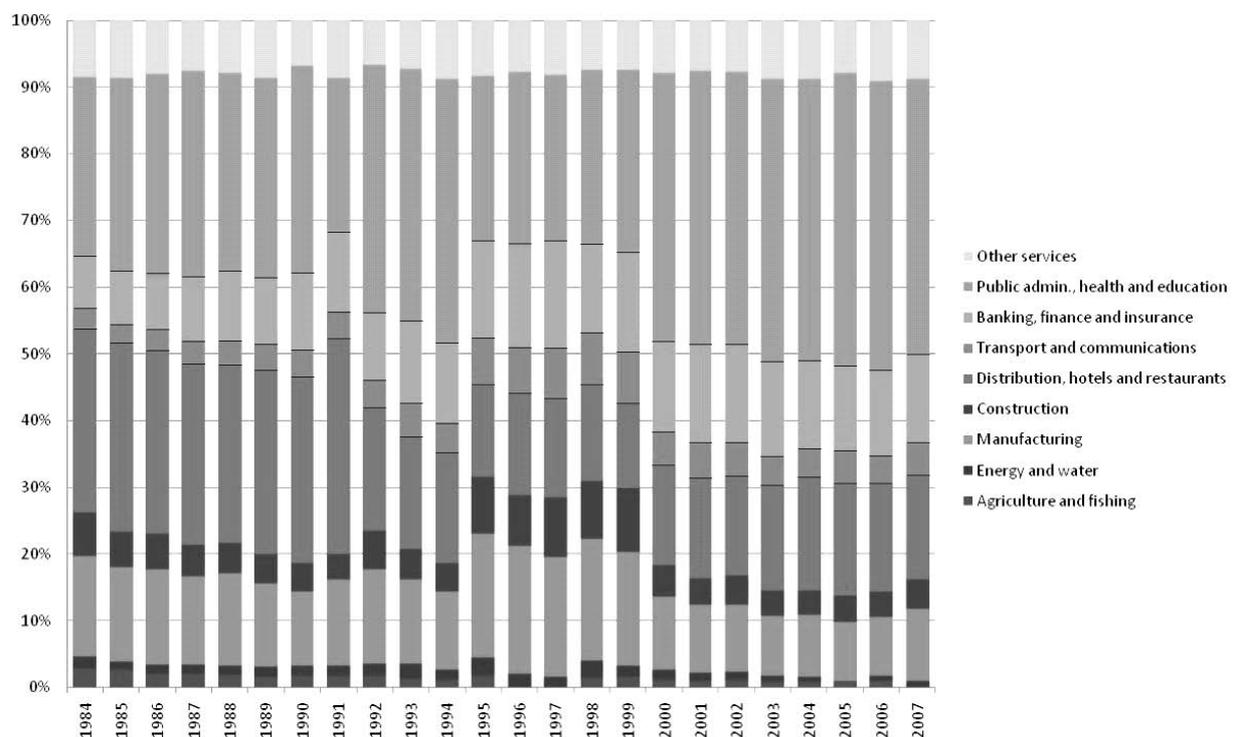
Source: Author's analysis of LFS data, various years.

These aggregate data conceal radical shifts in particular sectors. Most striking is the expansion of short, fixed-term contracts in the public services, particularly in health and education, beginning in the early 1980s. In the private sector, temporary working increased in

most sectors after the early 1980s, although often from a low base, and for the first time took root in industries, such as banking and finance, previously associated with stable employment and ‘jobs for life’ (Nolan and Slater, 2003).

Figure 2 shows the share of total temporary jobs by industry. The composition of temporary jobs shows cyclical as well as secular trends. Among the former, the manufacturing share of temporary jobs rose sharply in the recovery from the mid-1990s. Longer-term trends include the small but steady increase in the share accounted for by banking, finance and insurance services, one of the main drivers of total job growth in the UK in recent years. Public administration, education and health account for an increasing share of temporary jobs, particularly from 2000, following increased government spending.

**Figure 2 Temporary work shares by industry, UK 1984 to 2007**



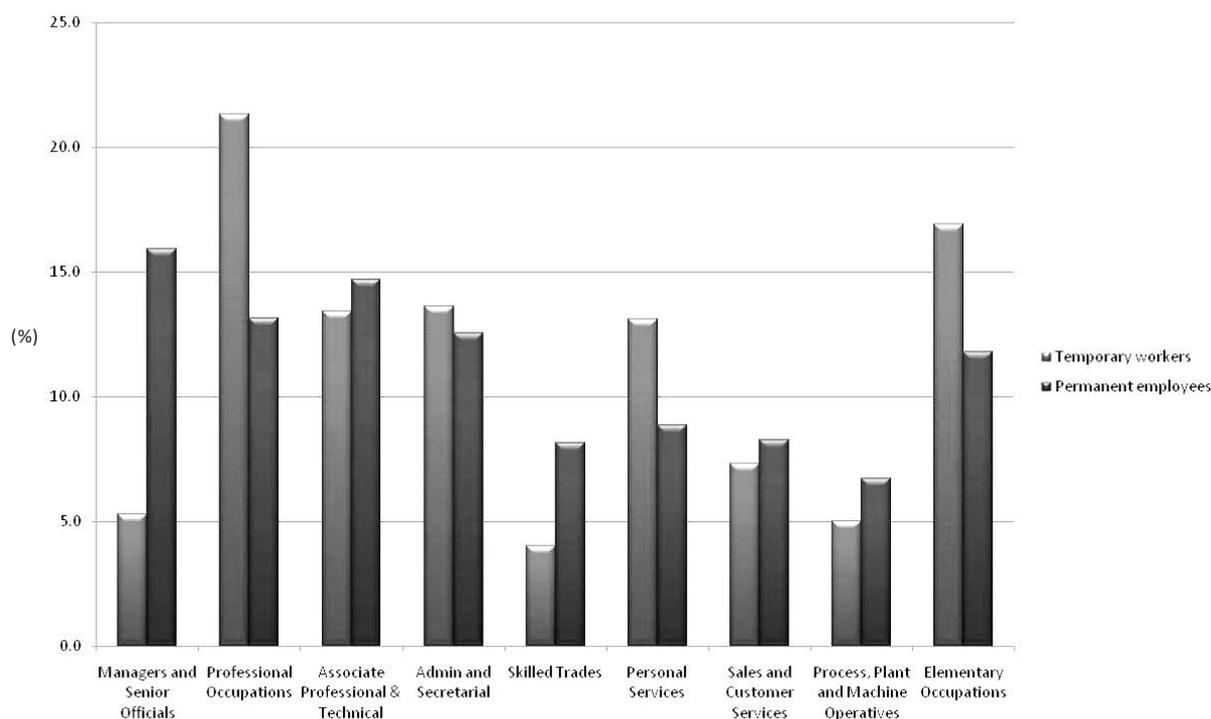
Source: Author's analysis of LFS data, various years.

What type of jobs tend to be temporary? Figure 3 compares jobs by occupation. Compared to permanent jobs, temporary jobs are over-represented among both higher skilled (professional) and lower skilled (elementary) jobs. This reflects the industrial structure of temporary work, with many of the professional temporary jobs located in the public sector (nurses, teachers, social workers), whilst elementary occupations, which include labourers, cleaners, shelf-fillers and security guards are spread across a range of industries. Temporary jobs are also over-represented among personal service occupations. Again, these jobs are spread across a number of industries, public and private, particularly ones that tend to be low wage, low productivity sectors but which have seen employment growth since the early 1990s. Occupations here include: assistant nurses; childcare occupations; adult carers; teaching assistants; travel and leisure attendants; hairdressers and beauticians and housekeepers.

Further analysis of temporary worker characteristics by Forde *et al.* (2008) indicates that temporary workers tend to be young, with a high proportion of agency and seasonal/casual workers under 30. Non-white workers are over-represented in temporary working, and agency-working in particular is associated with recent migrants, particularly arrivals from the new accession countries of the European Union. Temporary workers are also more likely to be part-time than permanent workers: 30% of agency workers; 37% of fixed-term; 83% of seasonal and casual workers; and 55% of 'other' temporary, compared to 24% of permanent.

The use of temporary workers in UK workplaces has not changed greatly in the last decade. Kersley *et al.* (2005) report that 30% had employees on any type of temporary contract in 2004, similar to a comparable 1998 survey finding of 32%. The use of temporary agency staff is less common than fixed-term contracts, with 17% of all workplaces reporting some use (no change since 1998).

**Figure 3 Temporary and permanent employee share by occupation, UK 2009**



Source: Author's analysis of LFS data, various years.

### 3.2 Part-time work

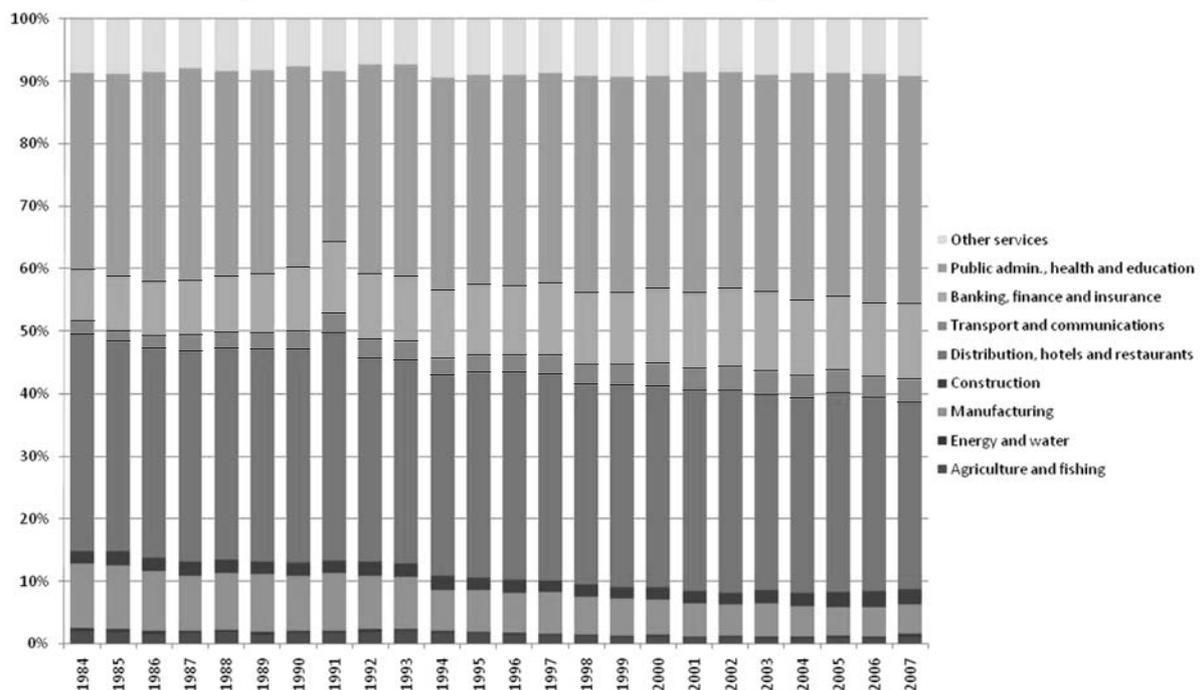
The growth in part-time employment is a long-standing trend. Definitions of part-time working vary, with employee surveys reliant upon self-reported status and employer surveys generally defining part-time work as fewer than 30 hours per week. In 1971, one in six employees worked part-time. By the end of 2009, with approximately 6.5 million part-timers out of 24.8 million employees, this ratio had risen to one in four. Part-time working remains heavily gender-biased. Calculations from the latest LFS indicate that only 13% of male

workers are part-time compared with 43% of women. Women account for 75% of all part-time work.

By 2004, 83% of workplaces employed part-time staff, with these employees in the majority in 30% of workplaces (Kersley *et al.*, 2005). Overwhelmingly filled by women, these jobs are much more likely to be poorly paid, low-skilled and unstable (Stewart 1999). Moreover, around half of part-time employees occupy 'small' jobs involving less than 16 working hours, and almost 1 million work as few as eight paid hours per week (Nolan and Slater, 2003).

At industry level, those with high incidences of part-time working include wholesale and retail, and hotels and catering in which almost half the workforce is employed part-time. In the public sector, community services, health and education have the largest shares of part-time working (Nolan and Slater, 2003). Figure 4 looks at this issue another way, focusing on the share of all part-time working accounted for by each industry sector.

**Figure 4 Part-time work shares by industry, UK 1984 to 2007**

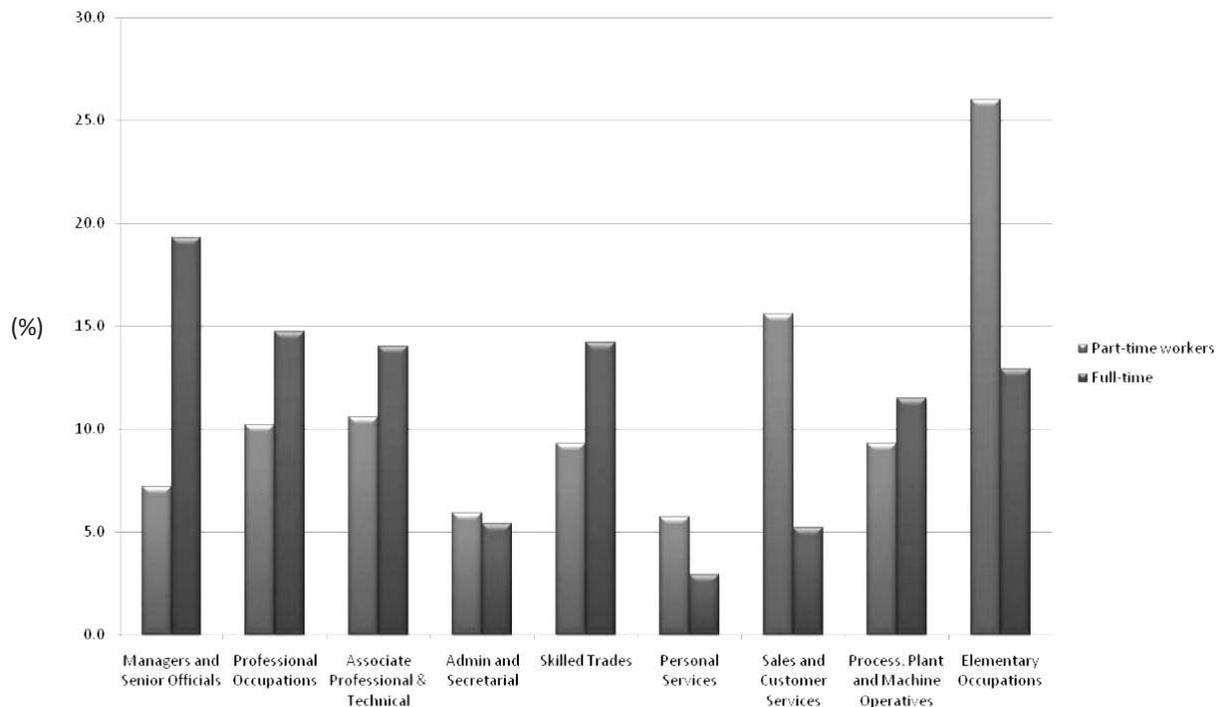


Source: Author's analysis of LFS data, various years.

Part time working in manufacturing has traditionally been low and with the decline in the sector, its share of all part time work has fallen continuously. Against this, some rise in the share in banking and finance is evident but it remains the case that retail and wholesale distribution, hotels and restaurants and public administration, health and education account for the bulk of part-time working, with a growth in the share of the latter evident in recent years.

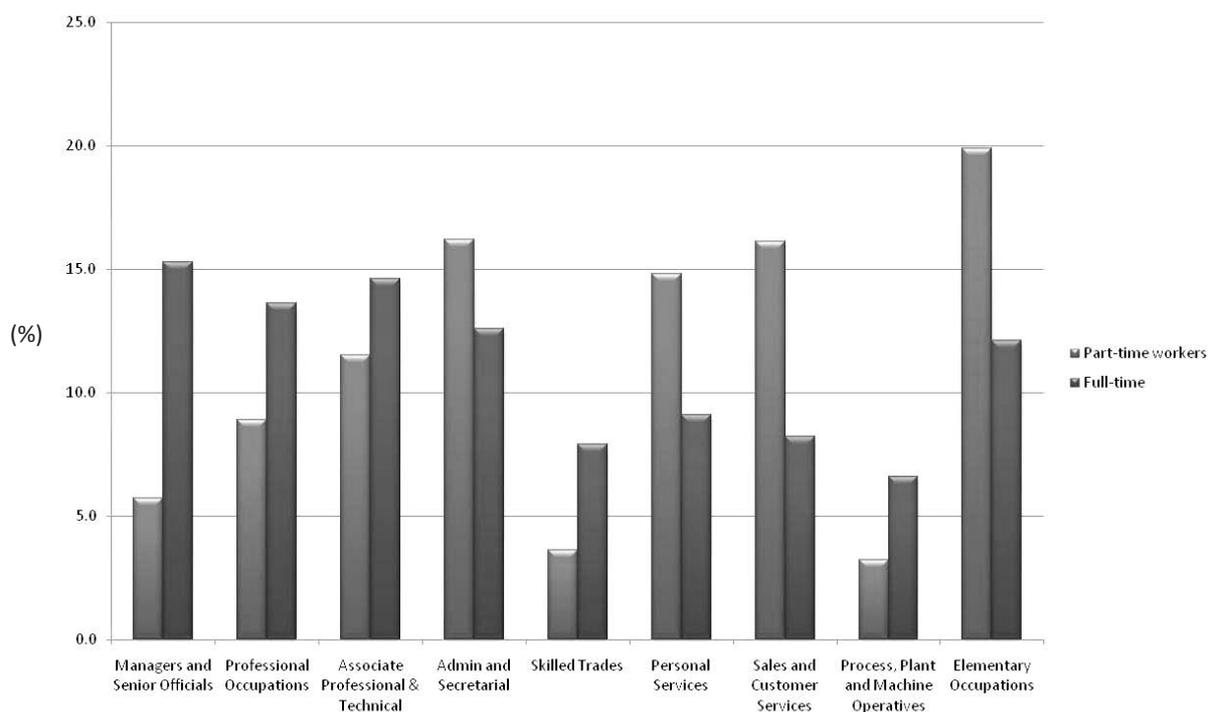
Turning to occupation, the over-representation of part-time working in clerical, personal service and elementary occupations is not surprising given its gender and industry patterns. However, although dominated by female workers, there are important occupational differences by gender.

**Figure 5 Part-time and full-time employees by occupation, all, UK 2009**



Source: Author's analysis of LFS data, 2009.

**Figure 6 Part-time and full-time male employees by occupation, UK 2009**

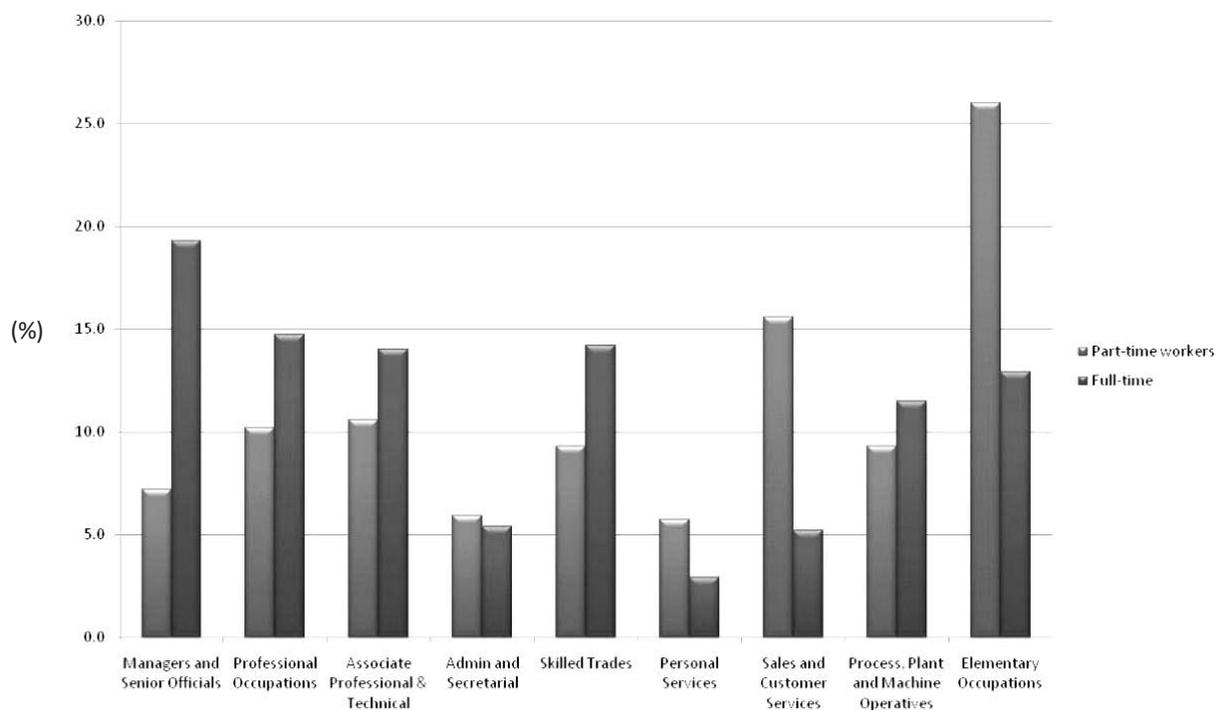


Source: Author's analysis of LFS data, 2009.

Figure 6 indicates that part-time male employees are highly over-represented in sales and customer service and elementary occupations (which includes basic retail jobs, cleaning and security work). Thus, when men do work part-time, this tends to be in lower-skilled and lower-paid work, whilst male full-time employment tends to be concentrated in higher skilled jobs.

The occupational patterns for part-time women are somewhat different (Figure 7), with concentration in clerical and personal service in addition to sales and elementary jobs. The continuing growth in these occupations and their related industries underpin the continued slow increase in the proportion of part-time working in the UK labour market as a whole.

**Figure 7 Part-time and full-time female employees by occupation, UK 2009**



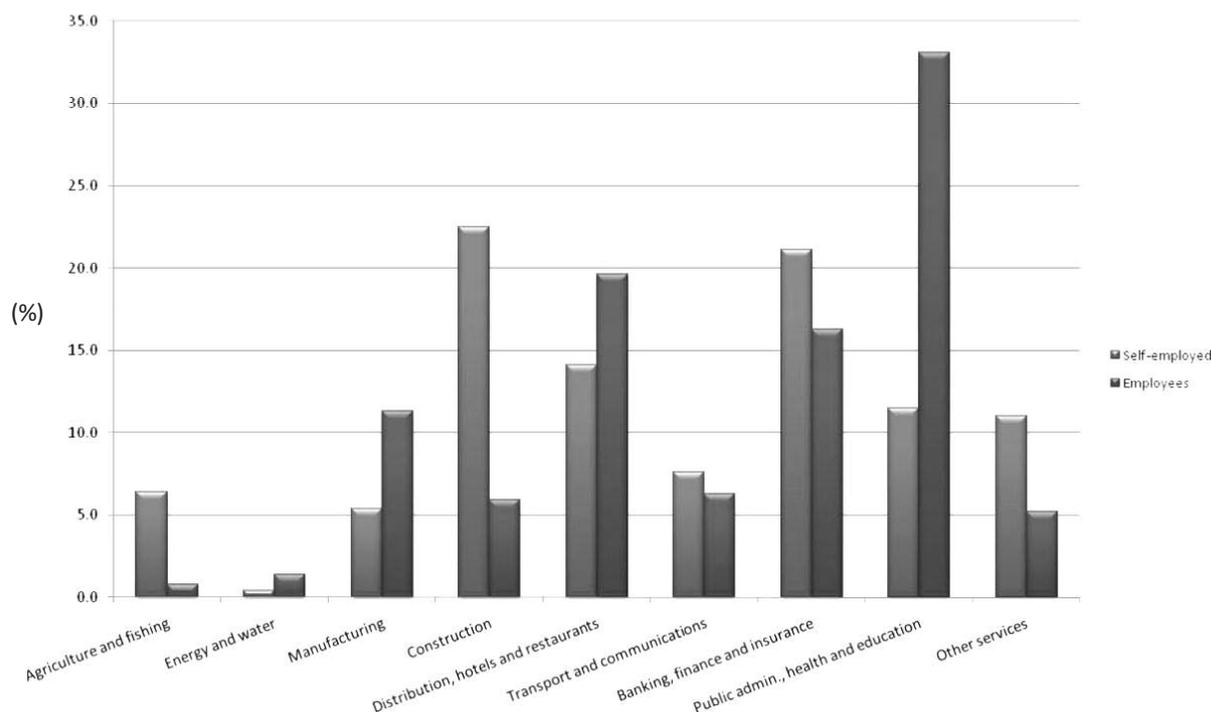
Source: Author's analysis of LFS data, 2009.

### 3.3 Self-employment

As Table 1 above shows, self-employment in the UK has remained relatively constant in absolute terms. In this section the industrial and occupational distribution of self-employment is considered and major characteristics of self-employed workers are discussed.

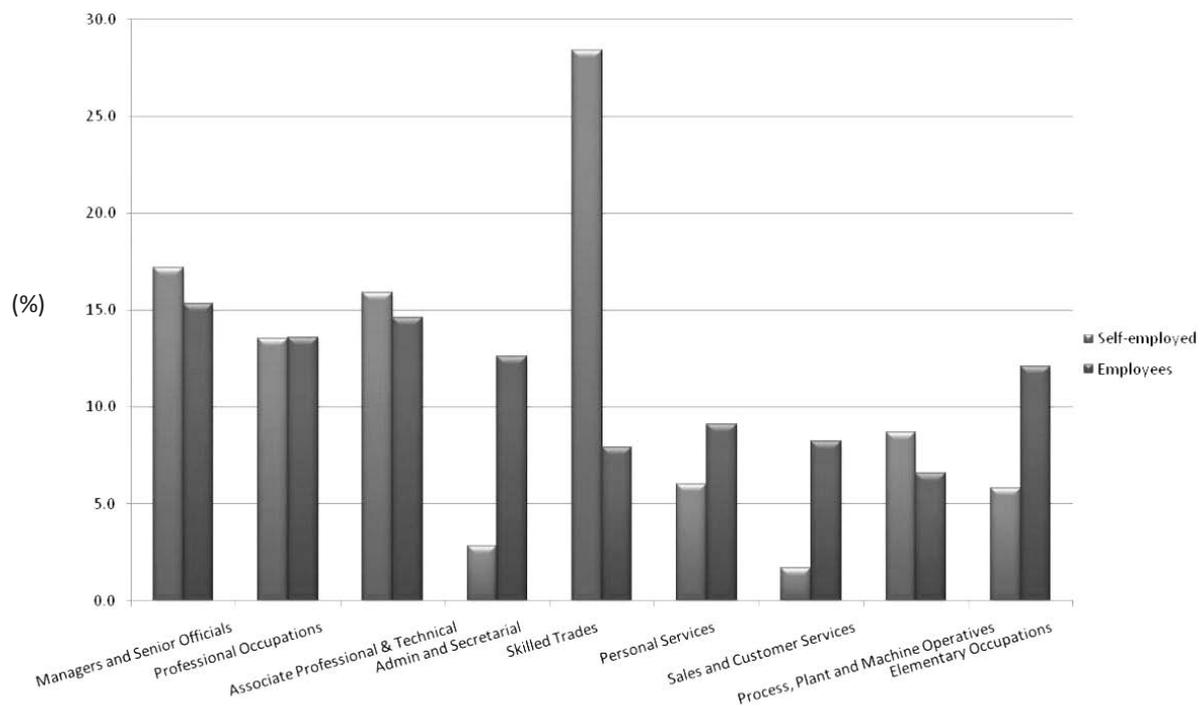
Turning first to the industry distribution, Figure 8 shows it is dominated by construction and banking, finance and insurance (almost half of all jobs). In comparison to employee jobs, agriculture and fishing also account for a much greater share of employee jobs.

**Figure 8 Employees and self-employed by industry, UK 2009**



Source: Author's analysis of LFS data, 2009.

The industrial concentration of self-employment is reflected by its occupational distribution. Figure 9 shows that it is highly concentrated in skilled trades, reflecting the large share of such work in construction, and in managerial and professional work. This latter association follows from the large share of self-employment accounted for by the banking and finance industry and, to a lesser extent, public administration, health and education. Compared to employee jobs, there is a higher share of plant and process operative occupations. This is due to many drivers of taxis and goods vehicles being engaged on a self-employed basis.

**Figure 9 Employees and self-employed workers by occupation, UK 2009**

Source: Author's analysis of LFS data, 2009.

### 3.4 Accounting for the trends

Many accounts of these trends focus on external technological and competitive pressures as the key driver (see Nolan and Slater, 2010 for a critique). Rajan *et al.* (1997), a government commissioned report, is typical. It notes that increases in non-regular follow from the benefits both to employers in terms of reduced costs and workers in terms of flexibility. In this context, greater use of non-regular employment is part of a wider shift by firms to accommodate rapidly changing technology and customer demands and worker demands. Essentially the story is of supply and demand.

From the perspective of the trades unions, the growth in non-regular work cannot be separated from gaps in employment legislation that allow employers to evade labour costs and responsibilities, particularly in the use of temporary or self-employed labour (TUC, 2009). This is exacerbated, it is said, by the increasing importance of small firms to employment growth, where labour standards may be lower and, relatedly, from lengthening corporate supply chains as private and public organisations make greater use of sub-contractors. Sub-contract firms often utilise non-regular labour, particularly temporary and 'false' self-employed workers. Despite the overall tighter labour market until 2008, these trends have been supported by inward migration to the UK from former Eastern Europe, leading to a ready supply of poorly informed and vulnerable workers, who tend to find employment in non-regular jobs (TUC, 2009).

These arguments find some support in the academic literature. Grimshaw and Rubery (1998) point to the shifting basis of power between employers and different sections of the labour force in driving growth in non-regular work. They argue that firms have been taking increasing advantage of the fact that labour market alternatives vary or have diminished

across different sections of labour supply by age, gender, ethnicity and migrant status, following deliberate changes to welfare benefit and tax rules and shifting skills demands. This has segmented labour supply allowing firms to secure stable labour input despite a worsening in the terms and conditions offered, including the security and stability of jobs. Rather, firms have been able to fill these often low-paid, low quality jobs easily with disadvantaged groups who face few real alternatives.

## 4. Transitions to Permanent Employment

To what extent is non-regular employment a bridge to more permanent jobs in the UK? To address this question a number of issues are examined. First, the evidence for employers using non-regular contracts as ‘screening’ devices is examined. Second, the reasons workers give for their employment status is considered; is non-regular work a voluntary choice? Third, the extent of transitions between non-regular and regular employment is examined.

### 4.1 Non-regular contracts as a screening device

A range of previous studies have indicated that UK employers use non-regular workers as a screening device for permanent positions. White *et al.*'s (2004) survey finds that casual, temporary and agency contracts can act as a bridge to permanent employment. Grimshaw *et al.*'s (2001) case studies of employers using non-regular contracts reported that all used agency contracts to trial workers. Forde's (2001) study of 8 employment agencies in two areas of the UK found that seven had established formal ‘temp-to-perm schemes’ where agency workers were employed on contracts of between 6-13 weeks before moving onto a permanent contracts.

The case-study evidence is reflected in national survey findings, particularly for temporary employment contracts. However, the quantitative significance of this function appears limited. The 2004 Workplace Employment Relations Survey (WERS2004) found that 16% of the establishments using fixed-term contract staff (equating to 4% of all establishments) did so as a means of screening workers for permanent contracts. This was the fourth most popular reason cited by firms for using fixed-term contract workers (the three most popular reasons were: to cover temporary increases in demand; to cover long-term absence; to obtain specialist skills) (Kersley *et al.*, 2005). However, this survey did not find that screening was an important reason for users of agency staff (it did not appear amongst the top 10 reasons for using agency staff).

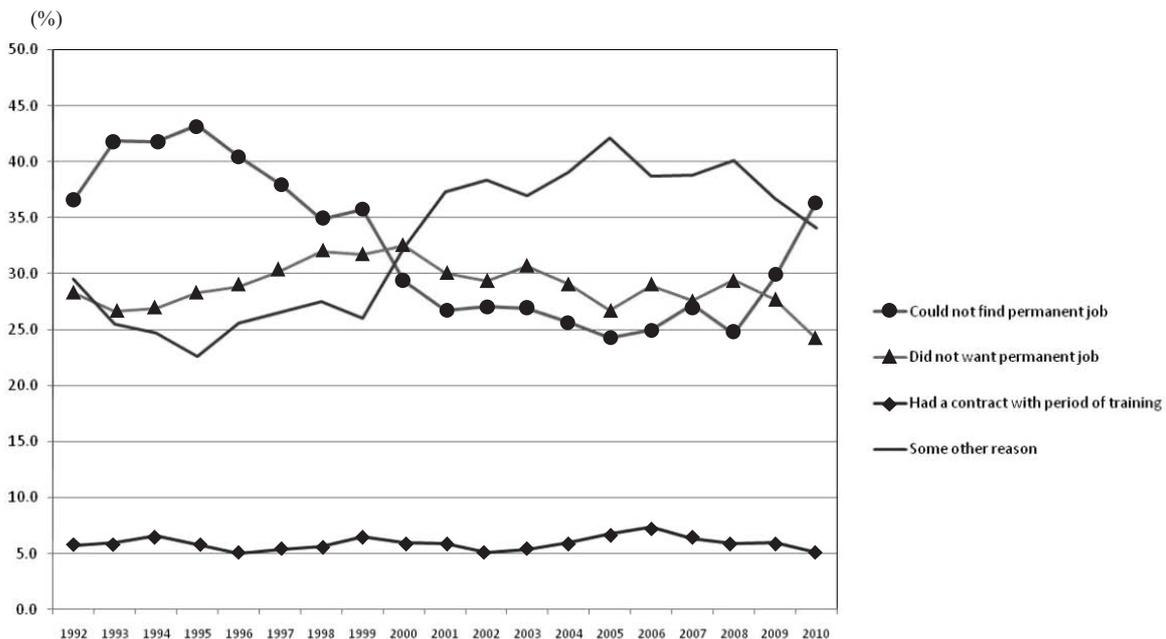
### 4.2 Is non-regular employment voluntary?

The LFS offers consistent data since 1992 on the reasons why employees take temporary and part-time jobs. Turning first of all to temporary jobs, respondents who indicate that their job was not permanent are asked why they have taken a temporary job. Two of the options for responses are: that they were in temporary work because they could not find a permanent job (often termed ‘involuntary’ temporary workers); or that they were in temporary work because they did not want a permanent job (commonly referred to as ‘voluntary’ temporary workers). These responses are charted in Figure 10.

The proportion of involuntary temporary shows a clear cyclical pattern, peaking in 1995 and reflecting the fact that much of the net job growth from the 1990-1 recession was in temporary work. The differential between the proportion of temporary workers who could not find a permanent job, and those who did not want a permanent job lessened as the labour

market tightened over the late 1990s. Between 2000 and 2007 the proportion of involuntary temporary workers remained fairly stable around 25%, whilst the proportion of voluntary temporary workers was consistently higher (at about 30%), reflecting the relatively strong economic climate. From 2007 onwards, amidst a deepening economic recession, the proportion of involuntary temporary workers has risen sharply to 36%.

**Figure 10 Temporary employees by reason, all, UK 1992-2010**

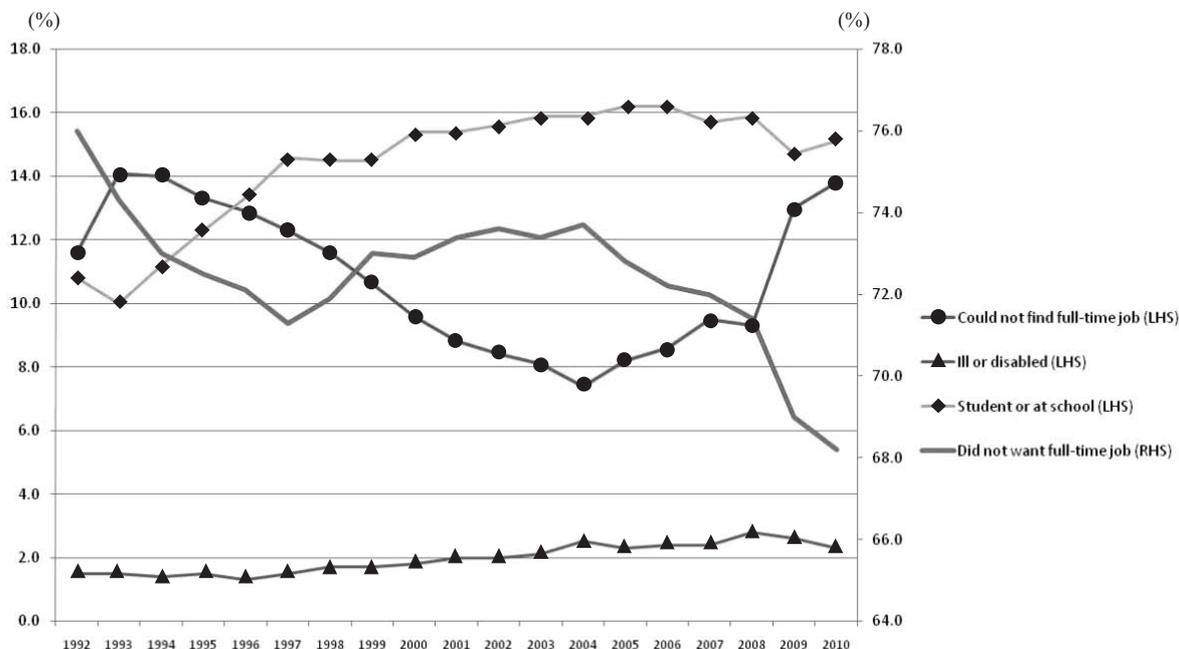


Source: Author's analysis of LFS data, various years.

These broad patterns remain when the data are broken down by gender. Men are more likely to report that they are in temporary work because they cannot find a permanent job, whilst women are more likely to report that they are in temporary work because they do not want a permanent job. The most recent LFS data (August-October 2010) show the proportions to be: 42% of men could not find a permanent job (34% of women); 20% did not want a permanent job (26% of women). Throughout the 1990s and 2000s, less than a third of male temporary workers can be categorised as voluntary, and the corresponding figure for women has never exceeded 40%. The conclusion that can be drawn from this is that the majority of temporary employees are not actively choosing this form of work.

The LFS asks similar questions of part-time workers, who indicate whether they did not want a full-time job or could not find a full-time job. Over the 1990s and 2000, the vast majority of part-time employees (between 65 and 90%) reported that they did not want a full-time job. The most recent LFS data show that 44% of part-time men did not want a full-time job (68% of women), whilst 26% reported that they could not find a full time job (11% of women). The latter figures are a sharp increase from 2008, when 18% of men and 7% of women were involuntary part-time workers and are remarkably similar to levels in 1992 (a very similar point in the economic cycle). Figure 11 provides a longer-term overview of voluntary and involuntary part-time working.

Figure 11 Part-time employees by reason, all, UK 1992-2010



Source: Author's analysis of LFS data, various years.

However, despite low proportions of involuntary part-time working this cannot be taken as evidence that workers are 'choosing' part-time employment. Gash (2008) argues that women with family responsibilities are unlikely to have their working preferences met without national policies supportive of maternal employment. In the UK, with relatively little support for maternal employment (compared to many other European countries) women are likely to be constrained in their choices of work. Tomlinson *et al.* (2008) argue that women returners working often opt for part-time employment due to rigidities in the design of jobs. They find that the institutional environment in the UK may reproduce occupational segregation, since many women opt for part-time jobs in occupational areas for which they are over-qualified. The decision to choose part-time work is often a constrained choice for women, explaining their over-representation in this type of work (see also O'Reilly and Fagan, 1998).

Similar questions for the self-employed exist for a shorter period, with questions regarding motivation for self-employment included in the LFS between 1999 and 2001. Dawson *et al.* (2009) find that the most common reasons for self-employment during this period were: to gain independence (31%), the nature of the occupation (22%), wanting more money (13%) and because the opportunity arose (13%). All of these reasons, they argue, might be interpreted as 'positive' rationales (Dawson *et al.*, 2009). Self-employment was selected following redundancy by 9%, and 4% opted for this form of employment because no other jobs were available (Dawson *et al.*, 2009). Thus, they find little direct evidence for what they term 'forced' entrepreneurship; in other words, few individuals appear to have chosen self-employment out of necessity because of loss of previous paid employment and a lack of other paid alternatives. The proportion of 'forced' male self-employees is significantly higher than for women (12% of men were in self employment because they had lost their job compared to 4% of self employed women), however, 'positive' reasons remained dominant

for male employees (Dawson *et al.*, 2009). However, the authors note that the survey period was in the midst of high labour demand in the UK economy; the picture might be quite different in a looser labour market (Dawson *et al.*, 2009). Indeed, there is some recent evidence that workers are increasingly being ‘forced’ into self-employed (and part-time) employment after losing full-time permanent jobs (Personnel Today, 2010).

### 4.3 The frequency of transitions to permanent employment

There is no systematic, generalisable data available to examine how often those who undertake non-regular employment *involuntarily* make the transition to permanent employment. However, a number of sources shed light on the broader question of transitions from non-regular to permanent employment. Booth *et al.* (2002), using data from the British Household Panel Survey examine where workers go on completion of temporary jobs. They find that 71% of men and 73% of women go to another job at the same employer (26% and 24% respectively going to a different employer). These new jobs may still be non-regular, however. Booth *et al.* (2002) find that of those employed in a seasonal or casual job, 28% of men and 34% of women moved to permanent jobs. The average seasonal-casual job duration before the transitioning was 18 months for men and 26 months for women. For workers on fixed-term contracts, the picture is more positive: 38% of men and 36% of women moved to permanent jobs. The average fixed-term contract lasted 3 years for men and 3.5 years for women before being made permanent.

Forde and Slater (2002, 2005) analyse LFS data on outflows from temporary work over the 1990s. Using the panel element of the survey, it is possible to examine transitions out of temporary work over a 12 month period. As expected, the proportion remaining in employment (either temporary or permanent) over the year rose steadily from 78% in 1992 to 84% in 1997, with a corresponding decline in the proportion entering unemployment, whereas the proportion moving to inactivity showed no simple trend. Yet by 1999, despite several years of labour market recovery, it remained the case that of those temporary workers still in employment one year later, *half* were still in temporary jobs. Thus, over the course of the 1990s temporary workers became increasingly likely to remain in a job, but it was *no less likely* to be a temporary job. By this measure, temporary work is a ‘trap’ for at least as many workers as it is a ‘bridge’ to permanent employment, at least in the medium term.

Forde and Slater (2002) also show how employment stability varies between self-employment, part-time employment and various forms of temporary employment, by analysing annual transition rates into employment, unemployment and inactivity, using the LFS panel. Findings are reported in Table 3 below. Full-time permanent jobs have the highest rate continuous employment rate after 1 year, closely followed by self-employment. Fixed-term contract workers and part-time employees are also highly likely to remain in employment one year later.

Perhaps surprisingly, data shows that employment rates for agency workers are much lower than most other forms of temporary work, with many moving into unemployment. Employment agencies are often said to enhance labour market efficiency given their specialist focus on matching workers to vacancies. Indeed, it is often argued that they are more efficient than state employment agencies in this respect and their contribution leads to lower levels of frictional unemployment (see for example CIETT, 2000: 19).

Looked at another way, these results are less surprising. In order to be able to readily meet the demands of client firms, temporary employment agencies generally seek an excess of workers “on the books”, leading to underemployment for many (Forde, 2001). While

registering with more than one agency may lessen the chances underemployment, lack of availability for assignments tends to lead to removal from the lists, rendering agency work patchy and insecure. Thus, it is not immediately obvious that agencies reduce the pool of unemployed workers through enhanced matching. Indeed, to the extent that they seek to retain a stock of surplus labour from which to draw in the face of fluctuating demands from client firms, this may worsen transitions into unemployment.

**Table 3 Transitions from non-regular employment, Labour Force Survey panel**

Status in 1999	Status in 2000						Weighted number
	Employed		Unemployed (ILO measure)		Inactive		
	Total	Difference from full-time permanent	Total	Difference from full-time permanent	Total	Difference from full-time permanent	
<i>Seasonal/casual</i>	69.0	-27.6	4.0	+2.5	27.0	+25.1	311,400
<i>Fixed-term</i>	91.9	-4.7	3.6	+2.1	4.5	+2.6	682,300
<i>Agency</i>	83.9	-12.7	7.6	+6.1	8.6	+6.7	274,000
<i>Self employed</i>	95.5	-1.1	1.2	-0.3	3.1	+1.4	2,864,800
<i>Part-time permanent</i>	89.7	-6.9	1.5	0	8.8	+6.9	4,837,200
<i>Full-time permanent</i>	96.6		1.5		1.9		16,890,500

Source: Forde and Slater (2002), Table 10.

Part-time, permanent workers are second only to the casual and agency temporary workers in suffering low employment retention. However, rather than enter unemployment many leave the labour market altogether. This is consistent with the female dominance of part-time working and the difficulties of juggling work and family responsibilities noted, given the lack of affordable childcare in the UK (Gregory and Connolly, 2008).

Taylor (2004) provides more detail on transitions from self-employment. Using data from the British Household Panel Survey between 1991 and 2001 it is found that 87% of male self-employees remained in self-employment (77% for women), 9% were employees (14% for women), 2% were unemployed (1% women) and 2% were inactive (9% women) one year later, findings that are broadly similar to those reported above.

## 5. Equal Treatment of Non-Regular Workers

Nationally representative data on the characteristics of non-regular jobs are presented by McGovern *et al.* (2004). ‘Bad jobs’ may be defined as those with at least one of the following characteristics: low pay; no sick pay; no pension provision (beyond the state scheme) or not being part of an internal labour market with opportunities for progression. On average, they find that over one quarter of all British employees (28.9%) are low paid, just over one third have no pension (36.7%), a similar proportion have no sick pay (36.1%), and half are in jobs that do not have a recognized promotion ladder (51.1%) (McGovern *et al.* 2004: 230). Only 1 in 4 (27.9%) of the British labour force are not in ‘bad’ jobs as defined by these dimensions. In comparison with permanent jobs, non-regular work is more likely to be ‘bad’ (Table 4).

Temporary jobs (both part-time and full-time) have the highest number of ‘bad’ job characteristics, whilst part-time jobs are generally worse than their full-time equivalents. Compared to full-time permanent jobs, temporary and fixed term full-time jobs are

particularly poor in terms of sick pay and pension provision. However, the authors note that non-regular workers do not have a monopoly on ‘bad’ job characteristics; many permanent jobs in the UK are also poor.<sup>3</sup>

**Table 4 Characteristics of regular and non-regular jobs**

	% of all employees in these jobs	% with low wages	% with no sick pay	% with no pension	% with no career ladder	Mean number of ‘bad’ characteristics
<i>Full-time permanent</i>	71.2	21.4	29.2	29.0	44.9	1.21
<i>Full-time temporary</i>	6.0	32.0	53.7	57.4	64.4	2.07
<i>Full-time fixed-term</i>	2.6	13.7	47.6	43.0	58.4	1.72
<i>Part-time permanent</i>	20.1	52.7	50.3	54.3	68.2	2.18
<i>Part-time temporary</i>	2.7	32.0	53.7	57.4	64.4	2.07
<i>Part-time fixed term</i>	1.0	29.7	57.0	51.1	46.2	1.87
<i>All workers</i>	100	28.9	36.1	36.7	51.1	1.48

Source: McGovern *et al.* (2004).

## 5.1 Wages

It is widely assumed that non-regular jobs suffer from lower pay, but what does the evidence suggest? Comparable data for temporary jobs is available from Forde *et al.* (2008), using the LFS. Table 5 compares the hourly pay of temporary jobs to permanent jobs. Panel A shows the mean hourly wages. On average, all forms of temporary job, except fixed-term contracts, are paid considerably less per hour than permanent employees. The ‘raw’ hourly wage differential is reported in Panel B, both in pounds and as a proportion of the permanent wage. For example, the average hourly wage gap between permanent and agency workers is £3.67 per hour (a 32% differential). With the exception of fixed term contracts, the wage gaps are highly statistically significant.

However, it is not sufficient to focus simply on the absolute wage differentials. A proportion of the wage gap will be due to the different characteristics of temporary and permanent workers, such as qualifications, age, job tenure, occupation, industry etc. Panel C reports the results of analysis that takes these variations into account (using multiple regression analysis). As expected, the size of the differential with permanent wages drops (compare with Panel B), but a marked difference remains. For agency work, pay remains 10% lower per hour on average (12% for men; 6% for women). By comparison, it is interesting to note that there is no significant wage penalty for fixed term contract workers (who are subject

<sup>3</sup> Even controlling for a variety of personal characteristics that might affect job quality (e.g. years of education, unionisation, sector, workplace size) they find that non-regular jobs remain, on average, inferior to regular jobs. Differences are less for those with high levels of education, in professional or managerial occupations, in unionised settings and in larger workplaces highlighting the importance of market power (McGovern *et al.*, 2004: 242).

to equal treatment legislation) whilst male agency workers experience a larger wage penalty than comparable seasonal and casual workers.

**Table 5 Hourly wages by contract type and gender, UK, 2007**

	All	Men	Women
<b>A) Hourly wage (£)</b>			
<b>Permanent (p)</b>	11.47	12.70	10.15
<b>Agency (a)</b>	7.80	7.49	8.26
<b>Fixed term (f)</b>	11.44	12.64	10.48
<b>Seasonal/ casual (sc)</b>	6.42	6.86	6.06
<b>Other temporary (o)</b>	8.80	8.74	8.85
<b>B) Wage difference (in £s)</b> (proportional gap between permanent and temporary in brackets)			
<b>(p) – (a)</b>	3.67*** (-32%)	5.22*** (-41%)	1.89*** (-19%)
<b>(p) – (f)</b>	0.03 (-0.3%)	0.07 (-0.6%)	-0.33 (+3%)
<b>(p) – (sc)</b>	5.05*** (-44%)	5.84*** (-46%)	4.09*** (-40%)
<b>(p) – (o)</b>	2.68*** (-23%)	3.96*** (-31%)	1.30*** (-13%)
<b>C) Wage differentials after controlling for worker characteristics</b> (hourly wage gap between permanent and temporary work, %)			
<b>Agency</b>	-10.0***	-12.4***	-5.5**
<b>Fixed-term</b>	-3.3**	-4.4	-2.4
<b>Seasonal/casual</b>	-6.9***	-2.6	-11.4***
<b>Other temporary</b>	-12.9***	-16.2***	-10.9***

Source: LFS, pooled quarterly datasets Jan/March – Oct./Dec. 2007.

Notes: Wages in constant (Spring 2007) pounds; data are weighted. Panel B: significance test of difference in average wage included; Panel C: estimated by OLS regression; \* indicates significant at 10% level \*\*significant at the 5% level \*\*\* significant at 1% level.

Source: Forde *et al.*, (2008).

Overall, this analysis shows significant wage differentials for agency, seasonal/casual and other temporary workers, even after controlling for a range of factors that might explain the ‘raw’ differences.

Table 6 summarises some similar evidence for part-time workers. The first column of the table shows the simple, ‘raw’ gap between hourly earnings. The second column shows the ‘adjusted’ gap, which is the difference in pay remaining when variations in individual characteristics (age, qualifications etc.) are controlled for. The final column shows how much of the raw gap is explained by those characteristics. The penalty for female part-time work is remarkably stable at 11%, compared with men. For women, the penalty to working part-time rather than full-time is much smaller, but this masks the fact that women on average are paid 11% less than men in the UK, even accounting for their differences (row 1 of Table 6).

**Table 6 Part-time hourly wage gaps by gender, UK, 1998–2004**

	<b>Unadjusted gap (%)</b>	<b>Adjusted gap (%)</b>	<b>Percentage of gap explained</b>
<i>All female employees to all men</i>	23	11	52
<i>Full-time female to full-time male</i>	14	10	29
<i>Female part-time to male full-time</i>	37	11	70
<i>Female part-time to male part-time</i>	20	11	45
<i>Female part-time to female full-time</i>	25	2.5	90

Source: adapted from Metcalf (2009).

Manning and Petrongolo (2008) show that the part-time pay penalty for women has been rising since the mid-1970s but they demonstrate that only half of the gap can be attributed to the characteristics of the women working part-time. The remainder stems from the concentration of part-time jobs in low-paid occupations. They show that the rise in this element derives in equal measure from the growing segregation of part-time jobs in low-wage occupations and the impact of the increase in overall wage inequality the level of pay in these low-wage jobs.

For self-employment, Parker (2004) finds that income inequality for self-employed workers is greater than for regular employees. In other words, self-employed workers are to be found disproportionately at the top end and the bottom end of income distributions. Given the polarised occupational and industrial pattern of self-employment, discussed above, this is not surprising. Indeed, some attribute part of the rising inequality in income in the UK over the 1980s and early 1990s to the rise in self-employment that occurred over this period (see Parker, 2004, for a review).

## **5.2 Training**

There is widespread evidence that workers on regular and non-regular contracts receive different levels of training and opportunities for skill development. For example, Booth *et al.* (2002) find that the male probability of receiving work-related training was 12% lower for

workers on fixed-term contracts (7% less for women) and 20% lower for men on seasonal-casual contracts (15% lower for women), relative to permanent workers, controlling for other factors. Whilst no difference in the intensity of training is found between fixed-term and permanent workers, where it does occur it is markedly lower for seasonal and casual workers: 9-12 fewer days of training per year than permanent counterparts. (Booth *et al.*, 2002).

The finding of a training penalty for temporary workers is confirmed by Arulampalam and Booth (1998). The authors also explore the experience of part-time workers, and report that male part-time workers are 7% less likely to receive work-related training than full-time men, while female part-time workers are 9% less likely to receive work-related training than their full-time counterparts. Hence there is a danger that any rises in non-regular work will undermine the reproduction of skills.

## 6. Conclusions

There is no clear, strong secular trend towards an increasing use of non-regular employment in the UK. Part-time working in the UK has been rising steadily for four decades. Despite some evidence of an increase in part-time working following the recent recession (and among men), this form of employment remains largely the reserve of women. Rising rates of female participation in the labour market, in the context of limited opportunities for affordable childcare, are key drivers of this trend, rather than employer strategy. That said, the segmentation of the labour force on the supply side does allow firms, at the margin, the opportunity to offer small hours jobs and these have, historically, been associated with inferior terms and conditions. The introduction of equal treatment regulations, following EU directives, should go some way to address the latter problem, although as noted, occupational segregation as much as direct pay discrimination, accounts for much of the penalty to part-time working.

Turning to self-employment, again there are no strong trends towards this form of working in the UK. The largest change is the rise in part-time self-employment, but this remains a small proportion of the total. Rather, self-employment remains concentrated in traditional occupational and industrial areas. Temporary working has seen more variation in recent years. In part this stems from its variegated nature (including casual, fixed-term and agency jobs). A key driver of fixed-term (and to some extent agency working) has been the public sector. This again suggests that there has been no radical shift in private sector employer strategies. There is, however, an increasing use of agency workers within the temporary employment sector and some evidence, as discussed here, of a greater use of migrant workers in such jobs. Again, following a cyclical, rather than secular trend, there is some evidence of an increase in temporary working in the last two years reflecting uncertainty in private and public sectors.

Overall, this paper has highlighted that in the UK, non-regular work is often (although by no means exclusively) associated with inferior terms and conditions. It is this tension between the flexibility and cost savings desired by business and the poorer objective outcomes experienced by workers that drive debates around regulation. These debates are once again surfacing following the coming to power of a right-wing government and the pressures in the post-recession labour market.

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## Appendix

**Table A1 Employment rights of workers and employees under UK employment law**

<b>STATUTORY EMPLOYMENT RIGHT</b>	<b>EMPLOYEES ONLY</b>	<b>ALL WORKERS</b>
<b>Discrimination</b>		
Protection from discrimination relating to equal pay, sex, race, sexual orientation, disability, age, religion		✓
<b>General Employment Rights</b>		
Written statement of employment particulars, specifying: pay, hours of work, holidays, sick pay arrangements and disciplinary and grievance procedures	✓	
Itemised pay statement	✓	
Protection from unlawful deductions from wages		✓
Statutory sick pay		✓
<b>National Minimum Wage</b>		
Failure to be paid the NMW		✓ agency workers and homeworkers expressly covered (Note: Apprentices under the age of 19, or aged over 19 and in the first 12 months of their apprenticeship, are not entitled to the National Minimum Wage)
Failure to allow access to records relating to the NMW		✓ agency workers and homeworkers expressly covered
Protection from unfair dismissal related to NMW	✓	
Protection from detriment related to NMW		✓
<b>Working Time</b>		
Rights to daily rest, weekly rest and rest breaks		✓ agency workers expressly covered
Paid annual leave		✓ agency workers expressly covered
Right not to be dismissed in relation to working time	✓	
Right not to suffer detriment in relation to working time		✓ agency workers expressly covered

<b>STATUTORY EMPLOYMENT RIGHT</b>	<b>EMPLOYEES ONLY</b>	<b>ALL WORKERS</b>
<b>Job Security/Unfair Dismissal</b>		
Statutory minimum notice periods	✓	
General right not to be unfairly dismissed or unfairly selected for redundancy	✓	
Protection for terms and conditions, continuity of employment and from dismissal in case of transfer of an undertaking	✓	
Right for union or workplace reps to be informed or consulted about collective redundancies or transfers of an undertaking of affected employees	✓	
Protection from dismissal on grounds of medical suspension, acting as occupational pension trustee, for making a protected disclosure, for asserting a statutory right	✓	
Right to statutory redundancy pay	✓	
Protection from dismissal relating to right to be accompanied in grievance and disciplinary procedures		✓ This is the only unfair dismissal right which applies to non-employee workers
<b>Non-regular Worker Rights</b>		
Equal treatment rights for part-time workers		✓
Equal treatment rights for those on fixed-term contracts	✓	

*Source:* adapted from TUC (2009, pp.175-77).

# Non-regular Employment in Germany

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## 1. The Issue

Atypical or non-regular employment is not a new phenomenon. However it has become an issue in academic and political discussions since the passing in 2003/04 of the “Gesetze für moderne Dienstleistungen am Arbeitsmarkt” (Laws on Modern Services in the Labour Market, hereafter referred to as the “Hartz Laws”), which deregulated agency, fixed-term and marginal employment with the aim of promoting the use of atypical employment and thus raising overall employment levels. It was a continuation of the process of gradual deregulation that started in the mid-1980s with the Employment Promotion Law (Beschäftigungsförderungsgesetz). In 2001 the Part-time and Fixed-Term Employment Law (Teilzeit- und Befristungsgesetz) had already paved the way for an expansion of part-time working. Given this wave of deregulation it is not surprising that the proportion of atypical forms of employment has increased significantly in recent years to more than a third of all those employed. But the expansion of these forms of employment throws up new problems that were largely ignored during the process of deregulation and are now emerging in the form of an increased risk of precarity.

This paper looks at the development, extent and patterns of this type of employment and also at regulation problems. It starts by differentiating between standard and atypical employment and then examines the development and structures of the various forms during the relatively long period since German reunification in 1990. On the basis of explicitly indicated social criteria it then compares the differences between atypical and standard employment. The paper then examines the opportunities to move from atypical to standard forms of work. The paper ends by drawing a number of conclusions on regulation problems regarding atypical employment including the question of improving various dimensions of social security.

## 2. Standard Employment and Forms of Atypical Employment

Atypical employment is usually defined in negative terms in contrast to so-called standard employment (Mückenberger 1985). It is, a category that includes relatively heterogeneous forms of employment, and these need to be explicitly differentiated in a detailed empirical analysis. The starting point for this paper is standard employment characterised by the following features:

- Full-time employment with an income sufficient for subsistence,
- Permanent employment contract,

- Integration into the social security system (particularly unemployment, health and pension insurance),
- Work relationship and employment relationship are identical,
- Employees subject to direction by the employer.

In this paper we use the term exclusively in an analytical rather than a normative way (“this is how it should be”). The reason is that in some continental European countries, such as Germany, social security systems often use these criteria as a point of reference. For the functioning of the labour market it is significant that compared with standard employment, atypical forms of employment, whatever their differences, increase the potential flexibility of businesses and, to some extent also of the employees concerned.

Atypical forms of employment deviate from standard forms of employment in terms of at least one of the above criteria:<sup>1</sup>

- Part-time work (without marginal employment), with regular weekly working hours less than under regular contractual level and pay reduced accordingly.
- Marginal employment, which represents a specific variety of part-time work defined in terms of remuneration below a certain level; the Hartz laws introduced in 2003 and 2004 distinguished between two categories: so-called mini-jobs and midi-jobs. Here, monthly remuneration limits of €400 and €800 apply, and the previous limitation of weekly working hours to a maximum of 15 has been abolished. Consolidated social insurance contributions and taxes amounting to 30% are paid exclusively by the employer.
- Fixed-term employment: since the mid-1980s the maximum duration of contracts has been successively extended to two years.<sup>2</sup>
- Agency work, which is different from all other forms because of the tripartite relationship between the employee, the agency and the company hiring the worker. This peculiarity results in a differentiation between the employment relationship (between the agency and the employee) and the work relationship (between the company and the employee). The Hartz laws resulted in far-reaching deregulation which removed the maximum length of assignment, the ban on synchronisation of the employment contract and the period of hire, and the ban on reassignment. In return, the principle of “equal pay for equal work” was introduced, although collective agreements are permitted to deviate from this.

A new form of self-employment is intended to replace the traditional freelancer category (for example lawyers or doctors), and this was promoted by the subsidy introduced by the 2003 Hartz laws for setting up so-called Ich-AGs/Familien-AGs (one person businesses/family businesses). From August 2006 onwards this form was merged with the similar instrument of so-called transitional allowances to form a new start-up subsidy scheme. It is not always easy to differentiate between employment and self-employment (“pseudo self-employment”), as the lines between the two can be rather fluid. We will not go into this form of employment in any further detail here (for an introduction and overview see Keller and Seifert 2007).<sup>3</sup> Individual features can appear in combination form – thus, for example,

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<sup>1</sup> Not included here are, amongst others: individuals working on a fee basis/freelancers, one-euro jobs for work experience, internships.

<sup>2</sup> Deviations are possible by collective agreements. The duration has been extended up to four years by collective agreements in the metal working industry.

<sup>3</sup> Cf. also the IAB information platform, which is structured according to various criteria: <http://infosys.iab.de/infoplattform/thema.asp>.

agency workers or part-time workers can at the same time have a fixed-term employment contract.

The lines of demarcation between these forms of employment are not always clear-cut – for example when it comes to differentiating between full-time and part-time working. The threshold applied is a working week of 35 hours – if an employee’s contract provides for him to work fewer than 35 hours, then he is regarded as being in part-time employment. The Federal Office of Statistics uses a different approach, defining part-time working as being 21 or fewer hours per week (Wingerter 2009). This threshold is undoubtedly set too low and also is out of line with international conventions. For many years the OECD has defined part-time working as involving a weekly working time of less than 35 hours. A few years ago it reduced this to 30 hours or less (OECD 2009). Depending on where the line is drawn, the proportion of atypical employees obviously varies.

### 3. Development and Reasons for Increase

#### 3.1 Development and extent

Since the early 1990s<sup>4</sup> all forms of atypical employment have been on the increase, albeit at differing rates and starting from different levels.<sup>5</sup>

- As in other EU member states, part-time work is by far the most widespread form (more than 26% of all employees). Its long-term steady increase, whatever the stage of the economic cycle, is closely related to the growing number of working women, who still account for more than 80% of all part-time employees. In addition to those opting voluntarily for part-time work, there are also individuals who would prefer to work longer hours if they were offered appropriate options.
- About 20% of all employees fall into the “marginal employment” category. There was initially a marked increase in this form of employment following the amendments to the Hartz laws<sup>6</sup> and it then stabilised at a high-level. An explicit differentiation has to be made between mini-jobs as an individual’s exclusive work and mini-jobs as a sideline in addition to non-marginal employment. The former, which in terms of social policy are definitely more problematic, predominate, accounting for almost 70% of all mini-jobs. However only 14% of all employees have this as their sole employment<sup>7</sup> – the rest combine it with full-time or part-time employment. The importance of mini-jobs is (at about 700,000 or almost 2% of all employees) relatively slight compared with mini-jobs.
- Fixed-term employment, despite the wave of deregulation since the mid-1980s, has only grown by about 10% – a modest increase compared with other forms. Original fears that that would be a massive expansion of fixed-term employment have proved unfounded. What is crucial is the question of whether individuals manage to achieve the transition to permanent employment.

<sup>4</sup> This date offers itself as a point of reference because of German reunification.

<sup>5</sup> Empirical information on the development and current status of atypical forms of employment has improved significantly in recent years. By contrast, theoretical analyses remain rare and incomplete (cf. Keller/Seifert 2007).

<sup>6</sup> The remuneration limit was raised from €325 to €400, working time limits were abolished. Reliable earlier figures are not available.

<sup>7</sup> This percentage includes an unknown share of students and pensioners.

**Table 1 Forms of atypical employment**

Year	Total employees (in 1,000)	Part time work <sup>1)</sup>		Marginal employment <sup>2)</sup>				Agency work <sup>3)</sup>		Total employees (without trainees) (in 1,000)	Fixed-term employment (without traineeships)	
		(in 1,000)	(%)	Total (in 1,000)	(%)	Only on marginal wages (in 1,000)	(%)	(in 1,000)	(%)		(in 1,000)	(%)
1991	33,887	4,736	14.0					134	0.4	32,323	2,431	7.5
1992	33,320	4,763	14.3					136	0.4	31,891	2,495	7.8
1993	32,722	4,901	15.0					121	0.4	31,151	2,221	7.1
1994	32,300	5,122	15.9					139	0.4	30,958	2,322	7.5
1995	32,230	5,261	16.3					176	0.5	30,797	2,388	7.8
1996	32,188	5,340	16.6					178	0.6	30,732	2,356	7.7
1997	31,917	5,659	17.7					213	0.7	30,436	2,453	8.1
1998	31,878	5,884	18.5					253	0.8	30,357	2,536	8.4
1999	32,497	6,323	19.5			3,658	11.3	286	0.9	30,907	2,842	9.2
2000	32,638	6,478	19.8			4,052	12.4	339	1.0	31,014	2,744	8.8
2001	32,743	6,798	20.8			4,132	12.6	357	1.1	31,176	2,740	8.8
2002	32,469	6,934	21.4			4,169	12.8	326	1.0	30,904	2,543	8.2
2003	32,043	7,168	22.4	5,533	17.3	4,375	13.7	327	1.0	30,513	2,603	8.5
2004	31,405	7,168	22.8	6,466	20.6	4,803	15.3	400	1.3	29,822	2,478	8.3
2005	32,066	7,851	24.5	6,492	20.2	4,747	14.8	453	1.4	30,470	3,075	10.1
2006	32,830	8,594	26.2	6,751	20.6	4,854	14.8	598	1.8	31,371	3,389	10.8
2007	33,606	8,841	26.3	6,918	20.6	4,882	14.5	731	2.2	31,906	3,291	10.3
2008	34,241	9,008	26.3	6,792	19.8	4,882	14.3	794	2.3	32,232	3,106	9.6
2009	34,203	9,076	26.5	6,993	20.4	4,932	14.4	610	1.8	32,558	3,026	9.3

1) April in each case

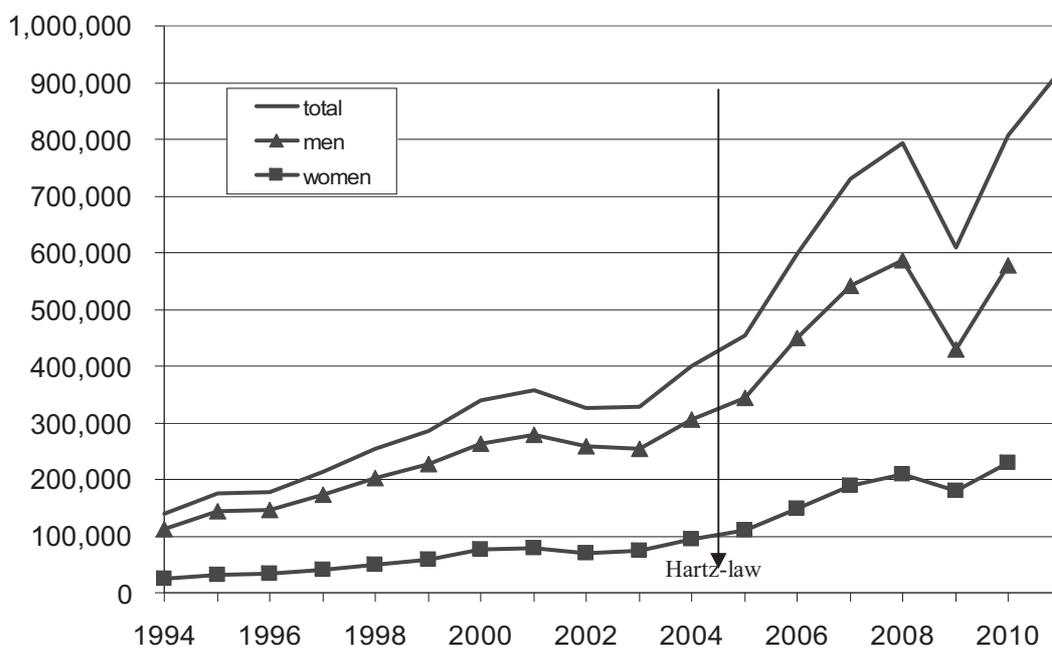
2) Mini-jobs on basis of €400

3) End of June in each case

Source: Federal Office of Statistics, F 1, Row 4. 1. 1., various years and <https://www-ec.destatis.de/csp/shop/sfg/bpm.html.cms.cBroker.cls?cmspath=struktur,sfgsuchergebnis.csp>;Bundesagentur für Arbeit (<http://www.pub.arbeitsamt.de/hst/services/statistik/detail/b.html>).

- Agency work continues to account for only a relatively small segment of the labour market and, in quantitative terms, is the least important form of atypical employment. However in the long term, especially since the deregulation of the Hartz laws, it has undergone an unusually strong expansion (to more than 2% of total employment), and its high growth rate (with a duplication within the last decade) has triggered a disproportionate level of public interest in this type of employment. However, with the onset of the economic crisis of 2008/2009 this development was abruptly reversed (figure 1), and the sharp increase was followed by an equally sharp decline.<sup>8</sup> Since about mid 2009, as the economy has started to recover, the figures for agency workers have sharply increased. By autumn 2010, the proportion of agency workers had reached the record level of just under 3% (more than 900,000). Clearly many companies realized during the crisis that agency working is a highly flexible form of employment. Agency workers can be rapidly integrated into work processes and just as rapidly dropped, without any redundancy payments having to be made. However, companies making use of such workers have to pay the agencies an extra premium on top of the low wage involved. This illustrates the extreme degree to which agency work is affected by the state of the economy – it is one of the first forms of employment that will experience an upturn when recovery kicks in.

**Figure 1 Temp agency employment 1994-2010**



Source: Federal Employment Agency.

<sup>8</sup> Between May 2008 and February 2009 the number of agency workers declined by about a third from 821,000 to a mere 550,000. Cf. Handelsblatt, No. 76, 6-4-2009, p. 3.

Allowing for double counts (such as part-time and fixed-term work), the proportion of those in atypical forms of employment has now increased to 37% of the workforce (Brehmer/Seifert 2008). Because of the different definition used, the Federal Office of Statistics put the proportion of those in atypical employment at 22% for 2008 (Wingerter 2009). In the early 1990s the figure was only 20%. Such jobs have thus long since ceased to be merely a marginal segment that could easily be excluded from any analysis of the labour market. Full employment as the norm is waning, and atypical forms are an increasingly common exception. The expansion of total employment between 2005 and 2008 was largely due to an increase in atypical forms, in particular the spread of marginal employment (mini-jobs) and agency work (Federal Office of Statistics 2008).

In view of this development, the term "pluralisation/differentiation of forms of employment" is a more appropriate description of the changes in the employment system than the frequently used reference to a "crisis" or even "erosion" of standard employment (for others Kommission für Zukunftsfragen 1996). As the employment landscape continues to change, we can expect – whatever the stage in the economic cycle and the overall employment trends – a further increase in atypical forms of employment, even though this does not mean that standard employment will become obsolete. In that regard, Germany does not constitute an exception. Whatever the type of welfare state involved (especially social democratic, conservative, or liberal) an increase in atypical forms of employment can be observed in the EU (above all in the old member states) (Schmidt/Protsch 2009).

### 3.2 Structural aspects

The employees in these different forms of atypical employment differ according to the usual criteria used for social statistics including gender, age and level of qualifications, as well as sector (Bellmann et al. 2009). These factors strengthen the segmentation of labour markets into core and marginal workforces, or "insiders" and "outsiders". In all forms – the only exception being agency work – women are either more (part-time work) or less over-represented (fixed-term). In this regard there is a clear gender-specific bias of atypical employment that is often neglected in public debate. The majority of women (57 per cent) are in atypical employment – indeed one can speak here in terms of a "new normality" that also marks a gender-specific division of the labour market. The increasing proportion of women in work (currently approx. 70%) is closely linked to the growth in atypical employment, especially part-time and fixed-term employment.

When it comes to skill levels, it is individuals without any officially recognised vocational training that are more frequently affected than those with vocational or tertiary qualifications. In terms of age, atypical employment can be found in all age groups, but younger employees (15 to 24), with fixed-term employment contracts that also start on a part-time basis, are over-represented. Finally, non-EU foreigners are more affected than EU foreigners and German nationals (Federal Office of Statistics 2008).

The atypically employed are distributed unevenly across the various sectors. Part-time working can be found above all in the services sector (42%). Short term contracts are mainly used in sectors that are not affected by the economic cycle such as health and social services, education and teaching and also public administration (Hohendanner 2010). What is striking is that the proportion of short term contracts for new recruits rose significantly between 2001 and 2009 from 32% to 47%. The proportion is also bigger the larger the company.

The picture is similar for those in marginal employment. The main sectors here are the retail sector, the hotel and catering industry and building cleaning, which account for 13.2%,

9.0% and 7.2% respectively. Some 30% of all the marginal jobs are carried out in addition to the individual concerned having a job subject to social security payments. In addition, this category of work includes a number of schoolchildren, students and pensioners that is difficult to quantify but probably accounts for about a quarter of all those in marginal employment. The relatively high proportion of this category of person also explains why a significant proportion of these jobs (almost 25%) last for only six months, although another quarter or so lasts for longer than 3 ½ years.

Agency working, by contrast, is largely found in manufacturing industry, though the services sector is also increasing in importance in this respect. The majority of workers involved – 71% – are male and work mainly in the metalworking and electrical industry but also as casual employees in other manufacturing industries. Probably because the Hartz Laws of 2004 removed the ban on short term contracts, the average length of employment has increased. Whereas in 1999 only 38% of all agency workers were employed for three months or longer, 10 years later the figure was 56%. Conversely, however, this also means that 44% of employees in this category are not employed for longer than three months. To this extent, this remains a relatively short term form of employment.

### **3.3 Reasons for increase**

In Germany, theoretical attempts at explanation are relatively rare – the majority of studies are empirical in nature. It is possible to speak of a theory-deficit in this field, which may have to do with the fact that this is a collective category covering various different forms of employment that only have in common the fact that in at least one central feature they do not meet the criteria defining normal employment. This is a negative form of demarcation rather than a positive categorization. If, however, despite the heterogeneity of atypical forms of employment, one tries to find a common denominator, one can say that all these forms of employment increase the scope for flexible deployment of labour compared with normal employment. This applies above all for companies, when it comes to individual forms such as part-time working and also, to some extent, mini-jobs; but it also applies to the employees themselves.

Generally speaking it can be said that there are specific factors explaining the expansion of the individual forms of atypical employment. It is not possible to come up with a theoretical approach that would explain all forms of atypical employment – indeed given the heterogeneity involved it would be difficult to formulate this.

Depending on the form of employment involved, the expansion of atypical employment can be explained both in terms of supply and demand. The reforms resulting mainly from the Hartz Laws changed the regulatory framework from the point of view both of supply and demand and boosted the expansion of atypical employment.

The first theoretical approaches tried to explain this expansion in terms of human capital and transaction costs theories (Nienhüser 2007; Sesselmeier 2007; Neubäumer/Tretter 2008), taking as their starting point the demand side of the labour market. The argument is that in times of volatile demand the use of atypical forms of employment (above all agency and short time working) can reduce labour and redundancy costs and also increase flexibility in terms of deployment of human resources. It also enables external revenues to be generated as, in the case of crisis, no core employees – in whose training considerable sums of money have often been invested – have to be made redundant. If, as demand declines, these employees were made redundant, then the companies would not be able to get any return on their investment and there would also be high redundancy payments due to individuals with many years of

service in the company. Moreover there would be no guarantee that, when demand recovers, these individuals could be reemployed, thus avoiding expensive recruitment and induction costs. Against this, however, one has to take into account transaction costs for induction, information and monitoring of “marginal” agency workers.

Various developments have contributed to changing the cost structures. Persistently high unemployment has increased the pressure for those without work to accept low wages. The Hartz Laws have contributed to this by reducing the length of time that unemployment benefit is paid and introducing stricter conditions when it comes to unemployed individuals accepting jobs with considerably worse working conditions than in their previous job.

It is further argued, on the basis of transaction cost theory, that greater division of labour means that induction costs, particularly for simple activities in the services sector, have gone down, thereby reducing the costs involved when new workers are taken on. In addition – at least in cases where redundancy payments are involved – the costs are lower when the period of service is shorter. The size of the redundancy payment depends on the period of service of the individual concerned. To this extent, it can be advantageous for companies, in addition to their core workforce, to have a second category of employees recruited on a short term, flexible basis. The current crisis illustrates very well how various forms of reduction of working time have enabled companies to maintain their core workforce despite a sharp drop in demand, while at the same time radically reducing their use of agency workers (Herzog-Stein/Seifert 2010).

The changes that have occurred are particularly obvious when one looks at the development of agency working. The deregulation of agency working under the so-called Hartz Laws made it more attractive for companies to take on agency workers. The ban on short-term contracts, synchronization and repeated recruitment has gone. As the experience of the current crisis shows, companies can use this instrument to shed labour rapidly and without redundancy costs when they face volatile demand for goods and services as the economic cycle waxes and wanes. It is possible to speak in general terms of a change in the function of agency working since deregulation. Whereas agency work was originally mainly used to fill short term gaps in the workforce resulting from illness, vacation or periods of leave, companies are now increasingly using this form of employment to try out and recruit staff and also as a flexible tool to avoid recruiting new staff or replacing members of the core workforce (Seifert/Brehmer 2008). In particular this last function offers companies a number of advantages related to the particular structure of agency working. Unlike normal working, there is a differentiation between the working relationship and the employment relationship. Agency workers sign a contract with the agency, with whom they also agree on the wage and working hours. But the actual work to be carried out is defined by the company itself, which has managerial authority over the worker. This particular legal structure means that the wage and working conditions of the agency worker can deviate from those in the company. If the agency workers receive the collectively agreed wage for the agency sector, then the gap between their pay and the salary received by the core workforce widens, the higher the level of wages is in the company concerned.

Similar calculations play a role in the use of short-term contracts. During the economic crisis this form of employment also took on an additional function. More than half of all young people, on completion of their vocational training under the dual system, were initially taken on only on the basis of a short term contract. Within companies, management and works councils often negotiate an agreement to take on all trainees, but at the price of their

initially being employed on a short term basis. Otherwise the companies would only take on a proportion of the trainees.

An example of this particular situation and the efforts of the social partners to ensure that young people are employed, at least on the basis of short-term contracts, can be found in the agreement signed in the chemical industry. The IG BCE trade union and the employers agreed on a funding deal entitled “Bridge to Employment” that was designed to ensure that trainees were all taken on. All 1,900 companies in the chemical industry have to contribute to a fund amounting to some €25 million which is then used to support companies who – despite the difficult economic situation – take on trainees after their apprenticeship is finished. Each trainee taken on is subsidized to the tune of up to €1,000 per month for a period of up to a year. In 2010 and 2011 this will mean that each year, at least 1,000 trainees will be given jobs. In order to avoid abuse of the system, a commission is to be set up with equal representation of employers and employees. The scheme only applies to companies that are members of the chemical industry employers’ association and trainees who are members of the IG BCE trade union. These short-term contracts are designed as an alternative to unemployment and to win time, so that a later stage the short-term contract can be converted into a permanent one.

Other reasons for short-term employment include temporary coverage for pregnancy and parental leave – both of which are becoming more significant as more women enter employment. In addition, short-term contracts are often signed in scientific research institutes and universities because of time constraints on budgets and project funding. Thus three quarters of academic staff at German universities only have a limited term contract (Hohendanner 2010).

In the case of part-time working, the main influencing factors are related to supply. But they also play a role in the case of mini-jobs. It is mainly women who like to reduce their working hours and opt for part-time working after they have started a family. This enables them to continue work and earn a salary, albeit a reduced one, and also to maintain pension eligibility. There is, however, a danger that if part-time working persists for a long time, the individual concerned will not accrue sufficient pension rights to ensure that she has an income above the poverty threshold on retirement. In this context it is perhaps significant that in Germany there is a lack of sufficient childcare institutions and schools offering all-day care. Given the current gender-specific distribution of roles, women often have no choice but to transfer to part-time working if they do not want to completely cut themselves off from the world of work.

Mini-jobs play a special role because of their particular status with regard to tax and social security contributions. The companies pay 30%, of which 2 percentage points go on tax, 13 on statute three health insurance and 15 on statutory pension insurance. This makes mini-jobs attractive for companies in terms of cost. As employees do not have to pay tax and social security, the companies can save this element of labour costs by paying low gross wages, as these are effectively net wages for the employees.

## **4. Actual Situation of Equal Treatment**

### **4.1 Are atypical forms of employment precarious?**

The increase in atypical employment implies an increase in social risks. These risks occur during and after the end of an individual’s working life. The question therefore arises of the link between atypical and precarious employment (Rodgers/Rodgers 1989). In political and academic discussion, atypical is often regarded as synonymous with precarious

employment (for others Dörre 2006). This commonly held position based, amongst other things, on concepts developed by Bourdieu and Castel, tries to put labour market trends into a broader social context – i.e. to create a bridge to research on social inequality. However, in terms of this investigation, such an approach remains rather unfocussed, because it does not differentiate between the objective dimensions of precarity detailed below and fails to take various contextual factors into consideration.<sup>9</sup>

We propose differentiating between several easily applied and not purely subjective dimensions of precarity that can occur in combination:

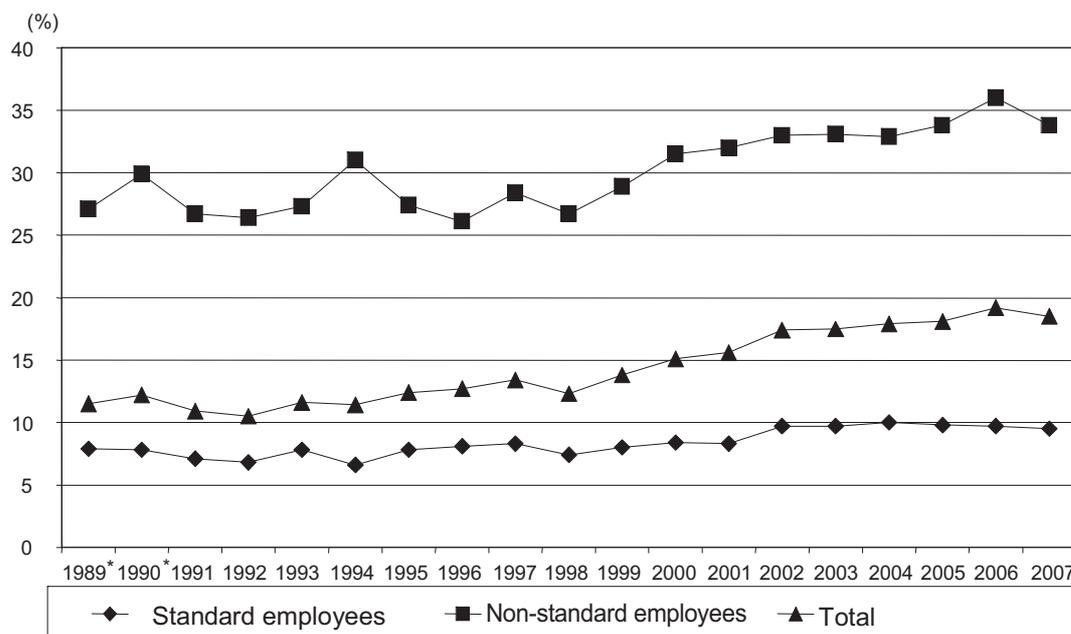
- A subsistence income – usually internationally defined as two thirds of the median wage, although one has to explicitly differentiate between individual and household income,
- Integration into the social security system, above all pension insurance,
- Employment stability (in terms of continuity of employment and not just a specific workplace),
- Employability (as the individual, life-long ability to adjust to structural changes).

Broadly speaking, the many empirical analyses based on a variety of data now available categorise atypical employment as inferior to standard employment. However they also show that not every form of atypical employment can be classified as precarious. However, if the criteria defined and proposed above are applied, then the risk of precarity is considerably higher than in the case of standard employment – even though it is itself not free of precarity risks.

When it comes to wages, all forms of atypical employment come out worse than standard employment when individual features are examined (figure 2). There are differences not only between standard and atypical employment but also amongst the various atypical forms. The wage differentials are particularly crass in the case of the marginally employed (Anger/Schmid 2008, Brehmer/Seifert 2009, Wingerter 2009), rather less so in the case of agency work (Jahn/Rudolph 2002, Kvasnicka/Werwatz 2006, Sczesny et al. 2008, Seifert/Brehmer 2008), but even fixed-term (Giesecke/Gross 2007, Mertens/McGinnity 2005) and part-time workers (Wolf 2003) are not on the same level as those in standard employment. The striking wage discrimination of the marginally employed probably has to do with the indirect subsidising of this form of employment. Even if one takes into account the individual household context, this situation creates problems for subsistence and can bring a risk of poverty during and after an individual's working life. Already some 1.3 million – almost 4% – of all employees are in receipt of public benefit payments because of their marginal income (Möller et al. 2009).

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<sup>9</sup> A freely chosen, part-time job of unlimited duration can be unproblematic in both the short and medium term if, for example, it makes family and work more compatible and the family's material needs are covered by the income from standard employment.

**Figure 2 Employees below the low-wage threshold, (in %)**

Source: SOEP, own calculations.

\* only West-Germany

There are also significant differences when it comes to employment stability. Agency work is categorised as particularly unstable<sup>10</sup> compared with standard employment (Brehmer/Seifert 2008, Brenke 2008, Kvasnicka 2008), and a higher level of volatility is also diagnosed in the case of fixed-term employment (Boockmann/Hagen 2006, Giesecke/Gross 2007). In the case of part-time employment, recent studies (Brehmer/Seifert 2008) have identified a greater degree of employment stability compared with all other forms and attribute this to the fact that part-time work in particular enables women starting a family to remain employed. Without the possibility of changing from full-time to part-time work as their family situation evolves, they would probably often have to interrupt their working lives.

Those in atypical employment are also disadvantaged when it comes to access to company based further training (Baltes/Hense 2006, Reinkowski/Sauermann 2008). The scope for improving one's own employability on the internal and external labour market is limited. The risk of discrimination is greater for employees with reduced working hours than for those with fixed-term contracts. It is unlikely to compensate for such discrimination by taking the initiative oneself, as the precarity risks described above can be cumulative. The poorer level of remuneration means that the individual concerned does not have the necessary financial resources. In addition, the relatively high employment instability makes access to company based training more difficult. In the face of these multiple disadvantages, there is a danger of falling into a sort of vicious circle consisting of repeated periods of atypical employment punctuated by phases of unemployment that is difficult to break out of and brings considerable long-term social risks for the individual concerned.

<sup>10</sup> The majority is employed for a period of less than three months.

## 4.2 Signs of re-regulation

Statutory regulations in the form of part-time and employment promotion legislation require all forms of employment to be treated in the same way in terms of income and working conditions. In practice, however, the situation is rather different, as has been shown. Compared to regular employees, those in atypical employment often run a considerable risk of being disadvantaged in terms of income and access to in-house training, and their general situation is much less stable. Given the social risks and the significant increase in this form of employment in recent years, the trade unions in particular are calling for new regulation in this sector aimed at putting it on the same footing as normal employment in social terms. In a not insignificant number of companies (23%) the works councils have succeeded in negotiating wages for agency workers that are comparable with those paid to the core workforce (Seifert/Brehmer 2008). One can, however, assume that this only applies to the basic wage and not to special payments, bonuses etc., so that even if the wage is the same, the effective income is not.

In autumn 2010, IG Metall achieved an important initial victory at sectoral level in the steel industry. Agency workers in all companies in the sector now receive the same remuneration as core employees. If the agency does not pay the same rate, then the steel company is responsible for remedying the situation. This collective agreement, which came into force in October 2010, runs to the end of 2012.

As the agreement only applies to an area with relatively few employees, the trade unions are calling for a general statutory regulation to ensure that agency working in areas not covered by collective agreements are put on the same footing. Only about half of all employees are covered by collective agreements. By the end of 2010 a decision had not yet been made as to whether the German government would introduce a minimum wage for agency workers. Given that in May 2011 workers from the new members of the European Union will have complete freedom of movement, a majority of the parties represented in the German Bundestag are in favour of such legislation.

Another topic under discussion in political and academic circles is the abolition of the privileged status of mini-jobs. In autumn 2010 the German Lawyers' Congress called for the special tax and social security provisions to be abolished (Waltermann 2010), and there is general agreement on this amongst academics. However, there is resistance in some parts of industry, above all those with a high proportion of mini-jobs, and politicians are therefore reluctant to change the situation.

## 5. Scenarios for Shifting to Permanent Employment

The social impact of the precarity risks described reduces to the extent that atypical employment serves only as a temporary solution and as a bridge to regular employment, as was the intention when the Hartz Laws were passed. However such upward mobility only functions to limited extent. When there is a change of job involved, transition from atypical employment to regular employment is considerably rarer than when an individual is moving from a full-time job (figure 3). Leaving aside unemployment, when individuals on short-term contracts or agency workers lose their job, a disproportionate number of them end up in similarly precarious forms of employment (Gensicke et al. 2010).<sup>11</sup> Another study showed

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<sup>11</sup> The study looked at what happened over a period of 2 to 14 months to people in various forms of employment following termination of their contract either by the employer or the employee himself.

that in 2009 45% of all short-term contracts ended in permanent employment (Hohendanner 2010). Before the onset of economic crisis, this figure had been 52%. In the manufacturing sector, which was particularly hard hit by the crisis, the figure even declined from 68% to 38%. This illustrates the full extent to which short-term employment is dependent on the state of the economic cycle.

People in part-time and marginal employment – or on €400 jobs – only account for a tiny proportion of those who find regular employment on their return to working life. This probably has a lot to do with the fact that the vast majority are not interested in moving into regular employment. Of all those previously in a typical employment, former agency workers, at 17%, transfer most frequently into regular employment, whereas those previously on short-term contracts do rather less well. However, by far the greatest proportion (41%) of people finding regular employment were formerly also in full-time employment (Gensicke et al. 2010).

**Table 2 Transition from unemployment to ... (in %)**

Former employment form	new employment form					
	temp. agency	fixed-termed	marginal jobs	part-time < 35	regular work	un-employment
temp. agency	12	16	3	2	17	50
fixed-termed	4	27	6	4	15	45
marginal jobs	2	12	25	9	5	47
part-time < 35	3	16	11	19	10	41
regular work	3	13	3	3	41	37
total	4	19	7	5	23	42

Source: Gensicke et al. 2010.

There is a similar difference amongst the various forms of employment regarding the risk of ending up jobless following termination of an individual's contract. Whereas 37% of those in regular employment did not find a new job, the figures for agency workers and those on short-term contracts are 50% and 45% respectively. This finding is particularly surprising because agency workers are subject to much greater social pressure to take up a new job as they have fewer rights to unemployment benefit (Arbeitslosengeld 1) than individuals who have held regular jobs (Gensicke et al. 2010). An analysis by Lehmer and Ziegler (2010) came to a similar conclusion. Particularly for temp agency workers it is difficult to move from this form of employment to a regular job. The bridge leading to safe jobs with better working conditions is very narrow (Promberger et al. 2006).

The empirical findings briefly described above are also a robust indication that there is a strong (relative) path dependency when it comes to the type of employment: those previously in non-regular jobs as often as not end up in atypical employment, and the majority of those coming from regular employment find another full-time job.

When it comes to income mobility, there is also a strong tendency for the situation to remain unchanged. Over a period of four years, almost two thirds of those in the lower income segment remained in this position (Schäfer/Schmidt 2009), and in recent years this proportion has even increased. On a deregulated labour market is more difficult to break out

of the low-wage sector and achieve upward mobility. Clearly, greater flexibility does not automatically mean greater mobility. What is not clear is what factors restrict mobility – this is a question that so far has remained unanswered in labour market research.

## 6. Long-term Consequences

The profiles of atypical forms of employment not only generate the above problems during an individual's working life (above all in terms of income, employability and employment stability), but also creates significant long-term problems in terms of social security that have been ignored in existing analyses. The consequences go beyond the labour market and affect individuals' post-work lives, with a considerable impact on social security, especially pensions. In a conservative welfare state such as Germany, such systems are very much focused on working life and strictly linked to the criteria of standard employment (financed through contributions of employers and employees and based on the principle of equivalence). Analysis of the resulting social problems renders the traditionally strict demarcation between labour market and social policy obsolete.<sup>12</sup> Any approach to reform requires integrated solutions.

The accumulation of social risks means that, compared to people in standard employment, those in atypical employment are more likely to be only on low wages and are therefore more often in receipt of top-up transfer payments. Moreover, because of the greater employment risk and/or the short periods of employment involved, they more frequently can only claim Type 2 unemployment benefit (*Arbeitslosengeld II*) when they lose their jobs.<sup>13</sup> The differences between agency workers and those in standard employment are particularly striking, with the exception of those on marginal wages, who are not covered by unemployment insurance. After getting job-less approximately one agency worker in two receives the lower Type 2 unemployment benefit, whereas the figure is only one in seven in the reference group. The main reason for this drastic difference is the fact that the previous period of employment subject to compulsory social insurance was not of sufficient duration. In addition, any claim to Type 2 unemployment benefit presupposes that savings above a certain threshold are first used for the purpose of subsistence. In these circumstances the greater degree of individual responsibility for old age provisions demanded of employees becomes unfeasible.

What is relevant in the long term in both individual and collective terms is the insufficient integration of such individuals into the pension insurance system. The low levels of contributions made as a result of long periods of part-time work or an entire working career spent on mini-jobs – but also unemployment after the expiration of fixed-term jobs – results in individuals only having a claim to pension benefits that are inadequate for subsistence purposes.<sup>14</sup> The changes that have occurred in types of employment increase the risk of poverty in old age for the individuals concerned. For years, this issue was regarded as having been solved in Germany, but it could re-emerge in the future unless appropriate measures are taken. And from a collective point of view, the necessary top-up transfer payments represent a

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<sup>12</sup> The consequences for individual lives or health are not examined here for space reasons. A broader introduction is provided by Kalleberg (2009).

<sup>13</sup> There are two types of unemployment benefits. Type 1 is limited and provides compensation rates of the last net income (60% without and 67% with children). Type 2 is unlimited but the compensation rate is much lower.

<sup>14</sup> With regard to pensions a differentiation has to be made between "classic", derived rights and provisions organised by the individual. From the perspective of equality it is the latter that is meant.

considerable drain on public budgets and bring with them the risk of gradual erosion of the basis for contributions.<sup>15</sup>

## 7. Outlook

In summary it can be stated that atypical forms of employment systematically display higher precarity risks than standard employment. Furthermore, in contrast to popular assumptions, their impact on total employment can be categorised as slight. As a result, any final assessment of deregulation measures is necessarily ambivalent.

In view of this conclusion, the question arises as to how these forms of atypical employment should be dealt with in the future. Should faith continue to be put in market mechanisms – and indeed, should these be promoted by further deregulation<sup>16</sup> - or should they be subject to stricter forms of political regulation? The latter option would require mitigation – or in a best-case scenario, elimination – of the social risks described above through (re-) regulation. As forms of atypical employment are quite heterogeneous, any measures taken would have to be highly differentiated, which would necessarily result in a new complexity of regulatory instruments.

Nevertheless the general regulations and design principles described in what follows would help to reduce the analysed precarity risks. These include realising – i.e. implementing in practice – the principle of equal pay, thereby bridging the significant wage differentials between identical jobs in atypical and standard employment. Indeed, if market mechanisms operated properly, then one could even expect a risk premium as a result of the higher employment risks involved in atypical employment.

Germany is one of the few EU member states that do not have any statutory minimum wage. A collectively agreed wage can, on application, be declared generally binding for the sector concerned, but in reality this seldom happens. A disproportionate number of those in atypical employment receive “poverty wages”, i.e. less than two thirds of the median wage. Introduction of a general statutory minimum wage would improve their prospects of being able to subsist on the wage they receive.

General (statutory or collectively agreed) claims to company based further training would not only improve the employment prospects of individuals but also enhance the functioning of the labour market. It was not least because of the mediocre further training activities of German companies in international terms that mismatch problems worsened during the last economic upswing (Koppel/Plünnecke 2009). In the long term there is a real risk of serious malfunctioning of the labour market. Demographic change, ongoing progress in the technical and organisational spheres, and the switch to a service economy mean that a higher proportion of the workforce needs to receive vocational further training. But the spread of atypical forms of employment does not serve this need for lifelong learning. Such forms of employment are not conducive to the development of a knowledge-based society.

The high level of employment instability to be found especially in the case of fixed-term and agency workers justifies the introduction of a type of precarity premium that can be found in some EU states, in order to balance out the unequal burden of risks.

<sup>15</sup> In terms of the differentiation between derived and own rights, it would have to be the latter in this case.

<sup>16</sup> The CDU/CSU and FDP government elected in autumn 2009 is planning two measures: in the case of mini-jobs, an increase and dynamisation of the existing 400 euro limit, in the case of fixed-term contracts a further liberalisation of the 2 year maximum duration and introduction of the possibility of a renewal of the fixed-term contract with the same employer.

A third general area for future reforms concerns pensions. One alternative that would fit into the current system would be a transition to a three-part solution consisting of an element funded from general taxation, an element based on contributions paid during an individual's working life according to the current equivalence principle, and also a voluntary additional insurance. However this last, purely private, pension insurance element requires an appropriate level of income. A more far-reaching, more unconventional solution would be to introduce needs-based minimum old-age provisions not dependent on any previous employment requirement and funded from general taxation. The introduction of such a system has already been under discussion for many years, irrespective of the development of atypical employment and the growing problem of old-age poverty, but in our context is becoming increasingly relevant.

One possible approach that could combine the reforms suggested above is offered by the latest concept of flexicurity, which is shifting the direction of the debate on labour market regulation. The idea aims at achieving a better balance between companies' calls for greater flexibility and employees' interest in greater social security than has been achieved hitherto by exclusively focusing on flexibilisation and deregulation (cf., by way of an introduction and overview, Kronauer/Linne 2005). Following implementation of this attempt to combine flexibility and social security in individual EU member states – above all the Netherlands and Denmark – it has now been declared an official part of European employment policy by the EU Commission (Keller/Seifert 2008).

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# 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.

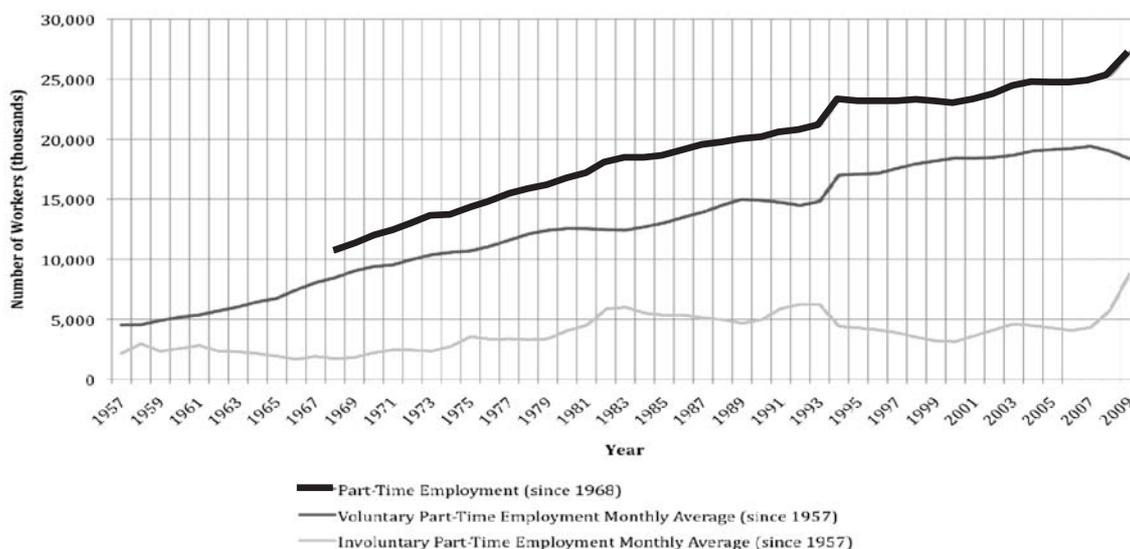
Employers use contingent workers for a variety of reasons. Houseman (1996) finds that employers hire contingent workers to accommodate workload fluctuations, fill temporary absences, meet employees' requests for part-time hours, screen workers for permanent positions, and save on wage and benefit costs, 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.



# Survey on Non-Regular Employment in France : a Profile

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## Abstract

This paper outlines evidences and debates about non-regular employment in France. It assesses available empirical data and literature. Definitions, usual evaluations and main characteristics of the various non-standard employment relationships in France are first reminded. Then the reasons for use that are invoked by the academic literature, mainly in economics, are outlined and specifically opportunities for transitions to permanent positions and resistance of employment stability. A brief picture of the equal treatment issues is drawn. Finally are reminded the main economic and social issues in the recent years, since the 2008 crisis.

## 1. Definition of “Non-regular Employment,” Their Industrial and Occupational Characteristics, etc.

### 1.1 How is each of these non-regular employment types defined according to the law? And how do these types of non-regular employment overlap with each other?

In France, the expression “non regular employment” (also called in this country “atypical employment,” or “non standard job forms”)<sup>2</sup> are used to emphasize that some employment relationships are different from the standard one, under the Labor Laws, that is, full time employment with an open-ended work contract. It does not mean that there are no regulations for non-regular contracts, but that these non-regular contracts are regulated by special rules, out of the common law.

French data are generally concerned with: temporary agency work, apprenticeship, other temporary contracts than temporary agency work (fixed-term contracts), and more often part time work, either with open-ended or with fixed-term contracts (see Table 1).

#### *Temporary employment*

The European data does not separate TAW and fixed-term contract, while the French data do.

Temporary Agency contracts are depending on highly specific regulations compared to

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<sup>1</sup> Économiste, Directeur de recherches émérite, CNRS (Centre d'économie de la Sorbonne) et Institut de Recherches économiques et sociales.

<sup>2</sup> See Germe et Michon [1979-80] or Michon [1981].

other contracts. Agency Employment Relationship involves three partners. The French Labor Laws distribute rights and duties of employers between the private employment agency and the user firm. They intend to protect temporary agency workers against social risks of a too much diffused temporary work, and to protect standard workers against some unfair competition of temporary work agencies and agency workers.

Fixed-term contracts include not only ordinary ones, but also subsidized contracts (over 1,200,000 jobs) that are referring to a large variety of regulations<sup>3</sup> (see Table 2). They also include many kinds of traditional temporary contracts.<sup>4</sup>

Apprenticeship contracts are dissociated from fixed-term contracts and subsidized contracts even if they may be fixed-termed and subsidized.

### ***Part-time employment***

In France every employee that has a shorter workweek than the legal or conventional workweek<sup>5</sup> is part timer. Part timer may have an open-ended or a fixed-term contract. An important share of temporary contracts is for part timers (21.1 % of part timers among fixed-term contract, 15.4% among open-ended contracts).<sup>6</sup> Three additional points are useful.

- Firstly, it means that there is some overlapping between temporary contracts and part time contracts (Table 3), and the number of non-regular jobs is not the addition of temporary and part time jobs.
- Secondly, there is a clear differentiation between temporary and full time contracts on the one hand, and temporary and part time contracts on the other hand (*see under, and Cottrell et alii [2002]*).
- Finally part-timers are protected by some specific regulations (about their working hours, and their social security coverage). Nevertheless, French part-time is mainly for women (31.4% of employed women are part timers, 5.8% of men). And the part time is mainly involuntary. So it is not surprising that part time is highly discriminating. Part timers are suffering large inequalities (wages, careers, social security coverage) [Maruani, 2005]. That is the reason why, even with a standard contract, part-time is viewed in France as non-regular employment, even as underemployment [Bouillaguet-Bernard and Michon, 1981; Maruani and Michon, 1998].

### ***Other non regular employment relationships***

Statistical data, as produced by the official measurement system, only evaluate these nonstandard contracts that are formally regulated by law or collective agreement. But non-regular employment is not limited to them. By consequence, statistical data do not produce any evaluation of other non-regular employment that remains informal, when it exists. Statistical data can give only a schematic view of the complex reality that constitutes of the non-regular employment.

Of course,

- it cannot be excluded that there are some relationships non regulated by law, even

<sup>3</sup> These regulations appear and disappear with changes of the public employment policy, according to the change of political majority. They are integrated within the fight against underemployment, and more often they are targeted to young people, new entrants on the labor market.

<sup>4</sup> These traditional temporary contracts are fixed-term but have specific regulations (especially, some of them have to be authorized by a sectoral collective agreement, they may have their own unemployment benefits...). Many of them are seasonal and used in sector with high seasonality.

<sup>5</sup> In case when the collective agreement decides a shorter standard workweek than the legal one.

<sup>6</sup> Temporary agency contracts are highly different, a large majority is with full time hours (table 2).

- clearly illegal,
- there is a full set of employment relationships that are unclear with regard to the formal regulation), in this way that they can be considered as permanent employment as well as temporary employment, depending on the view point,
  - many non regular contracts do not imply employment instability, many regular contracts do not protect against employment insecurity, the strict relationship between insecurity and employment contract that is generally supposed is not verified,<sup>7</sup>
  - beside dependant employment, independent employment is increasing again after decades of decrease, this new independent employment is often considered as a disguised dependant one, according to the fact that these workers are subordinated in a way that can be compared to employee subordination.<sup>8</sup>

### ***Final assessment***

It has been evaluated that 1/4 of employees have a precarious or unstable position [Rouxel, 2009<sup>9</sup>]. Many studies observed that part timers are suffering high precariousness [Askenazy et alii, 2009]. Some others observed that non-regular employment does not suffer systematically harder working times [Cottrell et alii, 2002]. In other words, precariousness does not appear so strictly associated to non-regular employment as it is often assumed. And open-ended contracts are not always producing employment stability, as it was observed during the 2008 crisis.

### **1.2 In what industries do these non-regular workers work? What are their occupations? How are they distributed in terms of attributes (for example, distribution by gender, age, qualification, ethnicity, etc.)?**

It can be observed that the various non-regular employment relationships have each their own uses; each of them is used in its specific industries, for some specific jobs, for some workers groups. The typical temporary agency worker is a young man, blue-collared, unskilled, working in car industry, construction, and food industry. Fixed-term contracts are clearly reserved for women, white collared and unskilled, in services. Part-time employment is even more used in services, and almost restricted to women. All this is not new, and even if some change may occur, these characteristics are persisting.

### ***Industries, occupations***

In France, Temporary Agency Work (TAW) is highly concentrated in a few numbers of manufacturing sectors and in construction (Table 4). This explains why agency workers are in a large majority blue-collared: 38.4 % of unskilled blue collars, 39.4 % of skilled blue collars.

Fixed-term contracts can be observed in services mainly, and specifically in services for individuals (health, education) [Brunel, 2007] (Figure 1).

Temporary employment is also increasing within the public sector. In France, employment in public sector (employees of the State administration, of the local public administration, of health institutions) includes people hired with a special procedure that gives

<sup>7</sup> See under.

<sup>8</sup> New employment relationships are developing today, partly depending on some subcontracting or externalization of activities, partly depending on some kind of manpower subcontracting and externalization of employment. They mean partly a real independency, partly a hard subordinate position.

<sup>9</sup> Such evaluation includes i) people that have open-ended contracts but are involuntary part timers, and ii) people with open-ended contracts, that are afraid to lose their position during the next year.

access to a formal status. This status is highly protective against dismissals and gives a very good social welfare. But public employment is also including non-regular employment (14 % in 2007, 2 % in 1982 [INSEE, 2010]): fixed-term contracts or people without any formal status (no labor contract, no employment protection).

Part-time is mainly localized in services, and more generally where employment is largely feminine: services to individuals, education, health, social activities, administration of service sectors (Table 5). It is concentrated within white-collars, but also within intermediate occupations (Table 6).

### ***Sociodemographic distribution of non regular workers***<sup>10</sup>

Even if non-regular employment is increasing within new workers groups, it is highly unequally distributed. It is mainly for women, young people, and the less skilled (blue or white-collars). Such workforce groups are targeted by non-regular relationships, they have been the main carriers of the various non-regular employment status. In this way, they have had a key function for the change of employment relationships and labor market structurations [Lefresne, 2006b].

### ***Temporary employment***

Compared to permanent employment, that is here open-ended contracts, it is obvious: women are less present within the group of independent employed, within temporary agency work and apprenticeship; they are more present within fixed-term contracts. This is highly dependent on sectors and occupations that are using women workforces (Table 7).

Age distribution is also highly distinctive (Table 8). Older workers have more frequently permanent jobs. Non-regular jobs are more and more for younger workers. With the high precariousness that is imposed during the first years of work, the young people are now the main carriers of new employment relationships.

Finally, temporary jobs are highly associated to low levels of education and a weak seniority since the end of the initial education (Table 9). A recent way-out of the initial educational system together with a low level of education gives a high risk to be forced to temporary jobs. It means that the increasing level of non-regular employment does not arrive with people that had previously regular jobs and are forced to accept non-regular ones. It arrives when older workers are replaced by younger people that are entering the labor market.

### ***Part-time***

Women have 80 % of part time jobs. It is near 85 % in services and more than 75 % in manufacturing. The few number of male part-timers is present in services for individuals (in this sector, 25 % of part-timers are male), in health and education sectors (a little more than 10 %) [Ulrich and Zilberman, 2007]. These male part-timers are frequently working during their educational time, in order to fund their studies (24 % of male part-timers) or because they cannot have other job than a part-time one (30 %).

Furthermore, part timers are young, especially when part-time job means a very short workweek (Table 10).

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<sup>10</sup> In France there is no quantitative data about ethnic groups. Such data are forbidden by-law. They are considered as dangerous, able to encourage racist ideas.

### **1.3 How has the number of each type of non-regular worker changed over the past 10 to 15 years?**

From 1985 to 2005, the increase in temporary employment is fast (Table 11). The stronger growth is for temporary agency work. It has increased its weight (within the total employment) fourfold. But, for other temporary statuses, especially subsidized jobs and apprenticeship, the levels appear to remain rather low. It means that the observed rhythms of increase must be put into perspective. High rates of growth are not really significant when levels are so low. Nevertheless, the decisive point here is that the non-regular employment rate is much higher within workforce movements than within the full work force. It means that despite its rather low levels, non-regular employment has a highly decisive position on the labor markets. It is supporting changes.

Part time weight has increased twofold from 1982 (8.2 % of employees) to 2005 (17.9 % of employees). Still, the evolution profile has been rather chaotic, with years of stagnation or even clear decrease (especially when the 35 hours workweek was implemented for full timers), and years of fast growth.

## **2. Increase in Non-regular Employment, Decrease in Regular Employment?**

The increase in non-regular employment appears to be compelling in the long term. Reasons are well known. Everybody can agree that today, within a very hard international competition, employment flexibility is essential. But its consequences are also very hard in terms of workforce protections. How is it possible to develop any flexibility that could maintain workforce protection, which is the famous flexicurity so suggested by the European policies? It is clear that in France, non-regular contracts have a major function in the implementation of a better flexibility and their influence on workforce precariousness is vigorously discussed since the 1990s. First, outlined below is the general discussion about the reasons why non-regular employment is increasing. Second, it is reminded that the permanent employment is not so fragile than it is often asserted.

### **2.1 What is the reason for the increase in non regular employment?**

Within the general environment of the global economic competition, firms have to develop their responsiveness to market changes (in other words their flexibility) to increase their competitiveness. Five key points can be referred: i) changes in the labor market equilibrium in France; ii) rigidities of the French regulations; iii) the pernicious effects of the public policies that tried to facilitate a higher flexibility to French enterprises; iv) the complementarities/substitutability of the various non-regular contracts for the same flexibility function; v) the willingness of non regular employment.

#### ***Changes in the labor markets***

This issue is not so discussed as other ones listed above, either because it is so obvious that any debate is not necessary, or because it emphasizes how much the French system of Industrial Relations is suffering hard limitations that benefit to employers and gives fragility to unions action.

During the 1960s, after more than two decades of very hard shortages of labor, a complete reversal of the equilibrium occurred. A slower economic growth faced numerous

arrivals of young people on the labor market (the so-called *baby-boom* of the after-war), and a fast increase of women participation that produced radical changes of the women position within the employment. Excess of labor became more and more distinct (except during the short period of very rapid economic growth) and the economic growth was not fast enough to reduce the high unemployment.

The main point here may be that this new labor market situation modified the equilibrium of power relationships between employers and employees and hardly reduced the power of employees to maintain the social welfare they had obtained during the previous period of rapid economic growth, and especially the power to protect its main symbol, the permanent (regular) employment as a common law contract, with all its protections and advantages. The defense of the regular employment becomes weaker and weaker. More precisely, this defense begins to be relegated to some restricted employment areas, where permanent employment remains a compulsory, inevitable, reference. It begins to be powerless to protect large areas where workforce groups were less unionized, or less involved in any struggle for social welfare. Non-regular employment was increasing in these areas. It means a real gap between insiders that have permanent contracts and outsiders, either new participants to economic activities or people that have been trapped in employment insecurity.

This was the situation from the 1970s to the beginning of the 2000s. Today we may enter in a new situation that is not so clear.

- On one side, labor supply is not so abundant. The baby-boom generations are reaching their retirement ages, working hours are reduced. Some local shortages are reappearing.
- But on the other side, the 2008 crisis generates again labor surplus and unemployment increases. Is the gap between insiders and outsiders changing again? The crisis is so deep that the employment decrease is not limited to unprotected, non-regular employment. The permanent employment of insiders is also weakened (see under).

Finally, it is difficult to have any clear idea of the future: it is probably not the end of the permanent employment. But it appears to be a new step towards a smaller area for permanent employment and a larger area for non-regular employment.

### ***Rigidities of employment regulation in France***

The international debates are always describing the French regulations as too much rigid, compared to other industrialized countries, especially the European Union member countries. This is also discussed by the internal political debate. Issues invoked today by the French political majority are significant. France would be a rigid society that needs complete changes of regulations. Especially for employment topics: labor market regulations should be changed, because they tend to limit individual initiatives, and are opposing to job creation.

One of the more debated issues is the nature of the employment contract, that is, the nature and the complexity of the set of regulations that are included in the common law contract (the full time and open-ended one) and especially the dismissal regulations. The purpose of such regulations is to protect employees against all kind of discretionary power of employers. Consequently, it limits the right of enterprise to dismiss anybody when it is judged necessary. The idea discussed here is that employers should prefer to hire with non-regular contracts in order to dismiss easier (without any formal and compulsory process) when workers prove to be unsatisfying. According to Cahuc and Kramarz [2004], the French formal processes for any dismissal (either dismissal for reasons related to individuals, or redundancies) are so complex and costly that this could explain why the number of open-ended contracts may be decreasing. For the employer, the risk of hiring is lower when any non-regular

contract is offered.

This is the main idea that justifies the new employment policies that has been implemented in the 2000s and mainly since 2005: either various attempts to change common law regulations of the employment contracts (to reduce the complexity of regulations with a new single employment contract substituting to all the existing ones, regular or non regular); or the new working time policies that contest the 35hours work week [ Michon, 2009-a].

### ***The pernicious effects of the public policies***

When the French academic debate began to be interested in the flexibility issues, in the beginning of the 1980s, it emphasized that flexibility has many ways and does not necessary generate either employment insecurity or any alternation of job creation and job cuts. Some literature opposed an internal flexibility (flexible organizations, higher and multipurpose skills, flexible working hours without any incidence on employment insecurity) to the easier way of external flexibility [Michon, 1987].

In the 1980s and 1990s, the main choice of employment policies was the working hours reduction in order to protect jobs and/or create new jobs. These policies not only promoted the working hours reduction and the work sharing. Besides and narrowly related to working hours reduction, was the promotion of internal flexibility (specifically flexible working times, flexible organization...). There was formally no incitation to develop non-regular employment but to the contrary to better regulate non-regular employment. The real purpose was to protect employment security and to develop in the same timework flexibility for insiders. Nevertheless, this does not create any successful obstacle to any process of non-regular employment scattering, the short period of the 35 hours workweek implementation excepted.

But in contrast, French employment policies have been and are always largely based on the so-called subsidized jobs. To encourage job creation with some cost facilities, these subsidized jobs support numerous reduction of the social security contributions paid by employers. The more often, these jobs are especially designed for some well-defined workforce groups (especially younger's), with low skills and/or wage levels. For the past 30 years, every political change had implied new kinds of subsidized jobs, added or substituted to the old ones. In other words, to favor unemployment leaves towards employment, the subsidized job statuses have been largely diversified and the subsidized job numbers grown fast. But these jobs are not permanent. In this way, employment policies favored new kinds of temporary contracts (Bevort, Lallement and Nicole-Drancourt, 2006).

### ***Complementarities and substitutability of non-regular contracts: the sector practices***

Statistical distribution of non-regular jobs suggests that there is a kind of gentleman agreement between the various non-regular contracts. Every status may have (for the employer and even for the employee) its own advantages and disadvantages. And every sector is using it own flexibility tools. Bunel [2004] reminds that according to a 1999 survey, the main tools used by firms to face economic fluctuations are i) overtime, ii) temporary contracts. Here the main points are: i) some substitution can be observed between fixed-term contracts and temporary agency contracts; ii) on the other hand, temporary agency contracts and overtime are often used together, they appear to be complementary.

Temporary agency work is mainly used to compensate absenteeism or to face activity

peaks (either or not anticipated) [OTT, 2008].<sup>11</sup> Specifically, these reasons are clearly more present than any seasonality of the job itself. Sectors that have highly seasonal fluctuation have their own seasonal contracts, specific to each sector.

Cades studies focusing on a few numbers of sectors can give some additional information about firm choices between these various tools for flexibility. A recent case study [Erhel, Lefevre and Michon, 2009] reveals that in the service sector temporary agency work is intensely competed by other temporary contracts. Even if these contracts are temporary, they are permanently present. Their status may be purely sectoral or specific to some occupations, e.g. the so-called “extra contracts” in the hotel business. It may be of general use, in any sector (apprenticeship, training courses, part-time). In any case, wages are lower than those of temporary agency work. And they give a higher flexibility than agency work, taken into account that in France regulation of agency work is very strict.

But in some manufacturing sectors, and especially in Car Industry or in Construction, it is well known that the temporary agency work use is not only very important, but is largely permanent. This permanent presence has two aspects. First, levels of agency work are high and stable (around 20% of the total workforce in subcontracting firms of the great car builders). Secondly, the same people can be employed as agency workers for a very long time, in the same user firm and with the same agency. Is it out of law? Yes and no. Yes, because law explicitly forbids it. No, because there is a set of ways to be formally “in-law” but using some tricks to legally pass through the legal obligation.

Finally, today, i) non-regular employment belongs to a set of flexibility tools that are offered by the French legislation and that are not restricted to the various employment contracts; ii) non-regular employment means a large range of employment contracts. Each has its own use, but each firm or sector has its own behavior and makes its choices for use. Finally, behind the statistical regularities, the whole situation appears to be a great “bricolage”.

### ***Is non-regular employment voluntary/involuntary?***

In France it is generally considered that the flexibility issues focus on firms, their organization and their human resources policies better than on individual choices. What are discussed are mainly the flexibility needs of firms, and debates are rarely referring to life courses and improvement of a better equilibrium between working life and family life.

Is it possible to have a pure free choice of the organization of its own life? There are no choices without any constraints [Freyssinet, 1999]. And it is in fact impossible to isolate what is a real willingness, a real choice for part time (or for temporary work) and what is only an adaptation to the shortages of full time / permanent jobs and to any high unemployment.

Any way, from this point of view, a few points can be reminded.

- Even if, filling in a questionnaire, individuals may declare that they are voluntary for this kind of employment, detailed collected information always shows that it is a matter of individual and /or job profiles, of individual competencies, of employer's recruitment preferences. In France, non-regular employment is concentrated in low skills, low wages, and hard and even dangerous working conditions. This only observation gives a high doubt about any real individual willingness.
- Among people who already have a job and try to change their jobs, many clear

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<sup>11</sup> In France the legal status of temporary agency work requires that the firm's use of temporary agency work has to be compatible with a set of formal reasons, explicitly dictated by law: absenteeism, extra work, to replace people whose contract is over, urgent work and since 2005 a few number of reasons related to the individual that benefits from the assignment (on the job training, people that are in a difficult situation).

differences can be observed according to the kind of jobs they have. In 2008, people with a permanent and full time job are searching better working conditions, more interesting tasks; individuals with a temporary full time job are motivated to reduce the risk of job losses; part-timers are searching higher incomes.

- In 2006, 54% of temporary agency workers are agency workers because agencies allowed gaining a job faster [FPETT and BVA, 2006].
- Part time is concentrated in women work forces. In France, historically, when women began to massively access to the labor market, it was with full time jobs. Women activity has never been associated with part time as it can be in some other European countries.

Maruani [2000] prefers to talk of reduced hours jobs (part time that is proposed by employers) on the one hand and part time employment (part time that is with the initiative of the employee) on the other hand. According to Bué [2002], the first type amounts to 1/2 of the women part time. According to Daune-Richard [2004], the first type focuses to low skills, short working hours, and time schedules largely opposed to family life (for example a long break in the beginning of the afternoon and working hours in the end of the afternoon when children are back at home).

By the end of the 1990s, it was observed that the open-ended and full time contract remains the great reference for all individuals [Cancé, 2002]. If there is some choice, individuals always prefer an open-ended contract, every other things being equal. But it is also evident that any access to regular employment is difficult. And non-regular employment may become a trap without any way-out.

- In 2006, only 27% of hiring has open-ended contracts [Givord, 2006].
- And subsidized jobs do not appear to facilitate any access to regular employment: one year after, only one out of eight gains a regular contract (for unemployed the proportion is equivalent) [Fendrich and Rémy, 2009].
- Di Paola and Moulet [2003] observed that for young people arriving on the labor markets, temporary employment could be a bridge towards permanent jobs, but only if it has a short duration. When duration of temporary jobs is lengthening (even if short temporary jobs are succeeding each others), temporary employment becomes a trap and it is more and more difficult to go out.
- It appears to be easier to cross from part time to full time when part timers have long working hours. By the fact, short part time hours are much more fluctuating (according to the employer needs), than long part time hours that seems to be a matter of working time organization to satisfy women demands (the free Wednesday, a day without school for children: 4/5 of standard hours) [Oliveira and Ulrich, 2002].

## **2.2 Is there a growing trend whereby non-regular employment is replacing permanent employment?**

### ***What about instability of non-regular employment?***

As issues analyzed here are mainly focusing on contract duration and renewals, only temporary contracts are considered here. Part time, when it has open-ended contracts, is not a problem from the present point of view.

- The French regulations limit duration of temporary contracts. The maximum duration is from 9 to 24 months including contract renewals, according to the reason of uses. It means that formally, temporary contracts cannot be permanently renewed.

- On the other hand, nothing can be opposed to any hiring of a temporary worker when it is proposed a permanent contract by the firm that is using him.
- Hiring with permanent contract may have less rigidity than temporary contract. By common law, permanent contracts have always a probationary period. During this period, it is easier to fire people, without notice. On the contrary, temporary contracts are difficult to break before the end of their time. In this way they may be less flexible than permanent contracts.

Anyway, from formal regulations to real behaviors, it may be a long distance. To our knowledge there is no information about the real average duration of open-ended contracts. But a set of points is well known:

- the assignment duration of temporary agency work is very short : 1.9 month (2008 average). In 2008, nearly half of temporary agency workers were assigned for less than 1.5 month during the whole year [Dolmens, 2009].
- some firms and/or sectors are permanently using a high share of their workforce with temporary agency contracts. And in many cases, for many years, these are the same individuals.
- for some firms (especially in the car industry, see Moncel and Sulzer [2006]) there is no hiring with permanent contracts that is not resulting from a selection within their young temporary staff (limited duration contracts of temporary agency contracts).
- many abuses have been submitted to the courts and unions obtained reclassification of the temporary contract to a permanent one. It means two contradictory points. i) Where there is no union (as is often the case in France), nothing can suggest that there is no abuse. ii) Unions have important difficulties to oppose to temporary work, where temporary contracts are the only entry points to regular employment and are supported for this reason by some workers.

### ***The regular employment resistance***

When non-permanent employment becomes now the standard for any recruitment (70% of hiring are with non permanent contracts, see above), the risk is that permanent employment decreases and non-permanent employment becomes a new standard, succeeding to the old one.

This is not the evidence. In fact, the non-permanent contracts are much more present in the work force flows than in the stock of employed people. But it is true for the inflows and the outflows too. The high share of non-permanent inflows is balanced with the high share of nonpermanent outflows. As a result, non-permanent contracts remain a minority. Every thing is as if regular employment succeeds to keep his traditional bastions. Non-regular employment remains with a narrow area within the workforce stocks (from a quantitative point of view) and a highly decisive function within workforce flows, to endure the flexibility requirements.

The main issue is here: can the permanent employment resist and how long can he resist? This issue was actively discussed before the last crisis.

- Germe [2001]<sup>12</sup> emphasized that internal labor markets are changing. Within them (that is for permanent employment), upgrading along the skill hierarchies is more and more uncommon. More frequent today upgrading require some transition through the external markets. Non-regular contracts are the entry points to the regular employment

<sup>12</sup> See also Germe, Monchatre et Pottier (2003).

area, within internal labor markets. On the other hand, regular employment does not give upward mobility as before. Instead of the traditional picture of internal labor markets (entry points in the bottom of the skill hierarchy and upward mobility that is largely internal), the new picture reveals no upward mobility, new entry points everywhere along the hierarchy, but always stability everywhere for internal workforces.

- Auer [2005] reminded that the evidence is that employment security for permanent contracts remains high (seniority on the same job is not decreasing).
- The CERC [2005] observed an increase of the instability in France (in this way that job inflows and outflows are higher than before) but a stability of the insecurity (with high but stable levels of unemployment and especially of long duration unemployment).

These debates were stopped by the crisis. Anyway, they have the interest to emphasize that labor market changes in the 1990s and 2000s appear to develop footbridges between regular and non-regular employment rather than a replacement of the first by the second one.

### ***Today: the doubts***

Of course, such a debate was stopped by the crisis that completely froze any recruitment and generated job cuts for permanent jobs as well as for non-regular ones. It is interesting to focus here to temporary agency work that is more often considered (even by the employers of the agency sector, wrongly or rightly) as a stepping stone toward permanent contracts and a forerunner indicator for the employment fluctuation: immediate job cuts in the agency work when recession begins, immediate recruitments in case of economic recovery.

For temporary agency work, in the 1990s and the first 2000s, all efforts of agencies to be present and to increase their weight on any labor markets appeared to be highly successful. The traditional interim (young and unskilled men, blue collars used in a few number of manufacturing sector) appeared less dynamic than some new ones (older people, higher skills, even managers, much more women, more and more use in services). These long-term trends were stopped in the first 2000 years. During this period, the rapid economic growth was highly job creating, the best years for job creation since the 1950s. On the one hand, the labor needs seemed secured enough to recruit with permanent contracts. On the other hand, the traditional users of agency work, that is in manufacturing, recovered high labor needs.

The crisis has had immediate influence on temporary agency work, that is the worst fall in the agency business since its beginning in France. Today, the temporary agency work market begins to recover. This recover is faster for the traditional agency work in manufacturing, which, for now, has created again the half of the jobs that were lost during the crisis [Finot, 2010]. That does not necessarily mean that the traditional agency work (the industrial one) could become again the typical one. Everything suggests that the trend for a large diffusion of agency work on all labor markets is unstoppable and will be again evidence when labor markets will come back to a standard situation. For the French economy, the anticipation of growth is clearly a smooth one without great security about labor needs of firms. In this perspective, the future is largely in favor of non-regular employment, specifically temporary one and mainly temporary agency work.

## **3. Actual Situation of Equal Treatment**

In France, law formally ensures equal treatment. This is especially the case for temporary employment, either fixed-term or agency contracts. For these temporary contracts,

equal treatment exists since the first status for agency contracts, protected by the first 1972 law. For part time work, except some specific regulations (about their working time and related topics) the issue itself is not to be considered by law, because contracts for part timers are either open-ended or fixed-termed and their equal treatment issues are those of their contracts. In any case, the formal equal treatment obligation means that the employer may be condemned by the courts to penalties and even prison, if this is not ensured.

The reality is different. It does not mean that the law can be broken, even if it is well known that there are illegal practices, especially where there is no union presence, where unions cannot oversee for the protection of non-regular employees. It is often the case with small or medium sized firms. But here and mainly, the main point is the structural effect. As equal treatment means “every other things equal”, compared to any other equivalent job, and because non-regular employment is used mainly for jobs with low wages, very hard working conditions, no qualification, equal treatment means that in average, non-regular employment is associated with low wages, hard working conditions, low skills.

### **3.1 Temporary employment**

#### ***Weekly working hours (and overtime working hours), Paid leave, Working conditions***

For working time and working conditions, regulation is the same for temporary employment and regular one. In case of agency work, the equal treatment must be evaluated by comparison to the staff of the user firm. Nevertheless, despite equal treatment, generally, temporary employed have bad working conditions. Their working hours are less stable from one week to another. They are more difficult to anticipate. Their work rhythms are more dependant and difficult, compared to those of permanently employed [Rouxel, 2009]. The empirical evidence is that it results from some structural effect.

#### ***Basic wage (and bonuses)***

All temporary employed must have the same basic wages and bonuses as permanent employees. For temporary agency workers, the equivalence is appreciated by comparison with employees of the user firm. They access to the same bonuses associated to the job itself (bonuses for danger, for meals...). Of course, temporary employed received rarely any seniority bonus, according to their short stay within the firm. But they benefit from a specific precariousness bonus (by-law, 10% of the wage; a collective agreement can decide a higher bonus). And they can prefer to have a paid compensation instead of their annual vacations.

According to Erhel Lefevre and Michon [2009], the evidence is that there is no greater presence of temporary agency workers within the low brackets of the wages distribution. It is not surprising, taken into account the precarious bonus and the compensation for annual vacations. But for their yearly income, as it includes non-worked (and non-paid) periods, it is the opposite, of course.

#### ***Opportunities for skill development and promotion within the company***

Fixed-term contracts give the same right for training as the open-ended ones, and even some advantages. For example, when they are assigned to dangerous jobs, they can receive some training for security. But the observed evidence is that people that suffered precarious career path in their past, have a lower access to training than regular employees [Perez et Thomas, 2005].

French employers have to support a mandatory social contribution for vocational training that is 1.5 % of wages amount. This is 2 % for temporary agency workers. One could deduce

that for training issues, agency workers benefit from a better situation. But it can be observed that they don't have such a good access to any vocational training. Erhel Lefevre et Michon [2009] point that in 2005, 9.4 % of employees declared to have some training period during the previous 3 months, only 5.5 % of temporary agency workers<sup>13</sup>. Also, for agency workers, funded training periods have a short duration, and their goals are only a strict adaptation to a single assignment. Even if temporary employment agencies claimed that training of their employees is a very important piece of their human resources strategies, the number of trained people remains low compared to the high number of people that passes through agency work. One can think that vocational training is reserved in fact for the employees that are faithful clients for the agency [Faure-Guichard, 1999 ; Kornig, 2003].

### ***Social/unemployment insurance, benefits packages***

All employees benefit from the basic health insurance, unemployment benefits, retirement schemes, as regulated by law. But in France these standard benefits are completed with the supplementary schemes that are the result of any collective agreement. Generally, these supplementary schemes do not apply in the same ways to non-regular and permanent employees. Above all, many social benefits require seniority to obtain the full benefits. It implies that non-regular employed do not have equivalent access. Temporary employees are not really equal to the regular ones.

### ***Participation in labor unions***

All employees, with any employment contract, have the same rights to unionization and representation within any firm. As in France, the representative system changes with the firm size, it is decided i) that temporary agency workers (that are by law employees of the agency) have their unionization rights within the agency, and ii) that they are included in the user firm workforce to appreciate which representation regime has to be operated within the user firm.

There is no doubt that the situation of temporary employees is insecure, more dependent. Anyway, the evidence is that they are less unionized than permanent employees, even taken into account the very low unionization in France<sup>14</sup>. But it is also the result of the fact that they are used in sectors where unionization of permanent workers is weak. And this last evidence has some highly important exceptions (of the car industry). Dufour, Bérout et alii [2008] give the reasons of such a confusing picture. Unions have been very late to really act for agency workers' unionization and mobilization. As these authors said, within a precarious environment, the trade-union activities are precarious themselves. But now, there are signs of changes:

- may be because some temporary people are in the same user firms for a long time, and this is more and more frequent;
- may be because unions begin to see that if the regular employment is decreasing, their traditional recruitment could be more difficult than before;
- may be because unions begin to understand that their future will depend on the non-regular employed.

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<sup>13</sup> Source : INSEE, enquête sur l'emploi 2005.

<sup>14</sup> The French paradox is well known : a very low unionization (less than 8 % for employées, less than 7% for the private sector only, the lowest rate of the industrialized countries. Nevertheless, the collective agreement coverage is the highest (more that 80 %). The agency sector increases this paradox : less that 1 % of unionized employees, but a highly dynamic activity for collective agreement, but under the initiative of employers, cf. Michon [2009-b].

### 3.2 Part time work

Part timers have the same rights as full timers, in proportion to their working hours. Their working conditions do not appear to be worse than the standard ones. But part time does not configure a homogeneous group, there is some differentiations to operate within this group.

#### *Working time: weekly working hours, overtime working hours, paid leave*

Annual leaves for part timers are the same as for full timers. In average, from the point of view of time pressures, part timers appear to have a better situation than full timers. But the evidence is also that situations of part-timers are various: those that should prefer longer hours; those that have temporary contracts; those that chose part time for family reasons; those that chose part time because the shortage of full time jobs.

Cottrell and *alii* [2002] observed important differences between voluntary and involuntary part timers. The first ones have longer hours, higher time pressures (regularity of hours, high work rhythms). For Cottrell and *alii*, everything was as if the counterpart of choices for family is higher time pressure. Nevertheless, Bué and Coutrot [2009] do not confirm this point. Their observations point that part timers who should prefer longer hours have in fact shorter hours, temporary contracts, variable working hours, and working hours difficult to plan from one week to another.

#### *Basic wages, bonuses*

Wage rates of any part timer have to be the same as those of full timers, with equivalent skill level, in the same firm. The seniority of part timers is evaluated as if they were full timers. But again, there is a strong structural effect, which appears to have a greater incidence than any equal treatment.

#### *Opportunities for skill development, opportunities for promotion within the company*

The global access rate to permanent training is 28 % for part timers, 38 % for full timers [Bel, 2008]. 24.5 % of part timers do not have any training for the danger prevention, compared to 12 % of regular workers (here, full timers with open-ended contracts) [Rouxel, 2009]. Part timers with open-ended contracts have worse situation, because of, on the one hand individual profiles of people that have these contracts, on the other hand firms profiles and economic sectors of users. It means:

- women with high family responsibilities that induce high difficulties to follow any training course; women who try to work more to gain higher income for their family even if training has to be sacrificed,
- small firms (where a large majority of these women are working) and service sectors, where training access rates are low.

#### *Participation in labor unions*

Formally, part timers are exactly in the same situation as full timers, their rights for unionization and representation are similar. But part time is predominantly female, white-collared, mainly in services, within small firms. All these characteristics are strictly associated with low unionization and low representation. Again the structural effect prevails.

## **4. Conclusion: Non-regular Employment as a Social and Policy Issue**

For a long-time, non-regular employment has been a major issue for the social and political debates. The tradition is to assimilate the various non-regular statuses to insecurity, fragility and precariousness. Despite all efforts to convince that flexibility and precariousness are not similar, that flexibility may come together with security for employees (the flexicurity of the European Strategy for Employment) [Schmid, 2009], in France flexibility and precariousness remain denounced as similar by unions.

French unions always considered that non-regular employment is a mean to weaken unions and to break protection of regular employment. So for a long time, their main and permanent goal has been to protect regular employment and to refuse any diversity of statuses. Of course, on the one hand, there are some differences from one union to another, some of them are less hostile than others. Of course, on the other hand, if unions may have been hostile, in the same time there was a lot of confusion, because many non-regular workers were very far to claim for any permanent contract for themselves (that should imply some loss of time autonomy, a higher time control by employer, some income losses...). So behind a general indictment on precarious work, French unions appeared to be hesitating about strategies to follow.

In 2007, the French government tried to introduce a set of changes within the labor market processes. One of them was to completely restructure the regulation of employment contracts; to simplify it; to replace the various kinds of employment contracts with a single one. The multi-industry collective agreement of January 2008 explicitly refused this change.

With the 2008 crisis, regular contracts were no longer protected, despite all their regulations. The main issue within the French debate is no longer employment contracts, but again unemployment levels, the efficiency of the labor market management and the unemployment benefits system. It does not mean that precariousness is not debated now. On the contrary it is considered that precariousness is one of the major issues in the labor market area. But on the other hand, one continues to claim that rigidities of regular contracts is a major obstacle to job creation. So the present situation is: i) the refecton of any reform of the employment contract architecture by social partners; ii) the general claim by employers and public authorities against rigidities of the labor common law. It means that non-regular contracts will continue to be in charge of many of the flexibility requirements.

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## Appendix

**Table 1 Weight of non-regular employment, 2008**

	(%)
	All 15 y.o. and over
Independent	10.5
Employees	89.5
Temporary agency workers	2.1
Apprentices	1.3
Fixed-term contacts (1)	8.3
Open-ended contracts	77.7
All employed	100
Numbers (in thousands)	25,913

*To read:* 10.5% employed are independent - (1) Subsidized employment included.

*Champ:* France métropolitaine, population des ménages, personnes en emploi de 15 ans ou plus (âge au 31 décembre).

*Source:* Insee, Enquête Emploi en continu.

**Table 2 Subsidized employment contracts**

	Number of recipients, end of 2008*
Subsidized contracts for private sector	1042
Younger recruitments	59
Recruitments of long duration unemployment (2)	66
For firm creation	119
Contracts with work/study training program	632
Restructuration assistance	13
Subsidized contracts for the "non market sector"***	185
"Contrat d'avenir"	78
"Contrat d'accompagnement dans l'emploi"	102

\* seasonally corrected \*\* local administrations, public sector, non-profit organizations.

*Champ:* France Métropolitaine.

*Source:* ASP ; DARES ; DGEPE ; INSEE.

**Table 3 Weight of part-time work among the various work contracts, 2008**  
(%)

	All	Men	Women
Independent	10.4	5.1	21.3
Employees	16.8	5.1	29.0
Temporary agency workers	8.2	4.6	16.2
Apprentices	17.7	14.9	23.8
Subsidized contracts	46.1	29.9	54.9
Fix-termed contracts	28.1	17.5	34.9
Open-ended contracts	15.4	3.7	27.9
All employed	16.1	5.1	28.4

*To read:* 10.4% of independent are part timers (5.1% of men, 21.3% of women).

*Source:* INSEE, Enquête Emploi en continu.

**Table 4 Sectoral distribution of Temporary Agency Work**  
(full-time equivalent, %, 100 = all employees of the sector)

	2001	2008
Agriculture, Fishing	0.9	1.3
Industries	6.8	6.9
Food industry	6.2	7.5
Consumption industries	5.0	5.0
Car industry	10.7	9.3
Equipment industries	6.6	7.1
Industries des biens intermédiaires	7.9*	7.5
Energy	2.3	2.7
Construction	7.6	8.1
Service	1.7	1.7
Trade	2.0	1.8
Transportation	3.8	4.3
Finance	1.3	1.0
Real estate activities	1.0	1.1
Firm services	2.0	2.0
Service to individuals	0.5	0.5
Education, Health, social welfare	0.6	0.6
Administration and non-profit activities	0.5	0.5
All activities	3.5	3.3

Annual average rates.

*Source:* DARES – UNEDIC.

**Table 5 Sectoral distribution of part time, 2008**

(100 = all employees of the gender)

	Female employees (%)	Male Employees (%)
Agriculture, Fishing	15.7	6.0
Industries	6.1	1.4
Food industry	9.9	1.7
Consumption industries	8.2	1.6
Car industry	2.4	0.8
Equipment industries	4.2	1.0
Industries des biens intermediaires	4.9	1.4
Energy	9.8	2.8
Construction	4.8	2.1
Service	21.0	3.3
Trade	18.5	2.4
Transportation	8.2	3.0
Finance	11.0	0.8
Real estate activities	16.4	3.2
Firm services	14.6	3.6
Service to individuals	41.3	8.0
Education, Health, social welfare	24.9	2.4
Administration and non-profit activities	19.2	2.9
All activities	17.6	3.0

All employees

Source: INSEE Enquête Emploi en continu.

**Table 6 Occupational distribution of part time employment, 2008**

(100 = all employees of the occupation)

	%
Management	10.2
Intermédiaire occupations	14.5
White-collars	30.5
Blue-collars	9.4
skilled	5.6
unskilled	16.4
Workers in agriculture	19.8
All occupations	16.9

All employees

Source: INSEE Enquête Emploi en continu.

**Table 7 Gender and status distribution of employment, 2008**

	Men		Women		All	
	Numbers (thousands)	%	Numbers (thousands)	%	Numbers (thousands)	%
Independent	1,832	67.1	898	32.9	2,730	100.0
Employee	11,838	51.1	11,345	48.9	23,183	100.0
TAW	380	69.3	168	30.7	548	100.0
Apprentices	237	68.3	110	31.7	347	100.0
Fixed-term contracts	824	38.5	1,316	61.5	2,140	100.0
Open-ended contracts	10,397	51.6	9,751	48.4	20,147	100.0
All Employed	13,670	52.8	12,243	47.2	25,913	100.0

All employed, 15 y.o. or more.

Source: Insee, Enquêtes Emploi du 1er au 4e trimestre 2008.

**Table 8 Age and status distribution of employment, 2008**

	(%)			
	15-24 y. o.	24-29 y. o.	50 y. o. and more	All ages
Independent	2.0	9.3	16.5	10.5
Employees	98.0	90.7	83.5	89.5
TAW	6.6	2.1	0.7	2.1
Apprentices	15.3	0.1	0.0	1.3
Fixed-term contracts	26.4	7.5	4.4	8.3
Open-ended contracts	49.7	81.0	78.4	77.7
All Employed	100	100	100	100

Source: INSEE, enquêtes Emploi.

**Table 9 Diploma, seniority of activity and employment status - All employed, 2007**

(%)

	Ensemble	Enseignement supérieur long	Enseignement supérieur court	Bec et équivalents	CAP-BEP et équivalents	Brevet, CEP et sans diplôme
Sortis depuis 1 à 4 ans de formation initiale						
Non salariés	4	5	6	4	1	1
Salariés	96	95	94	96	99	99
Emploi temporaires	31	22	27	34	38	45
dont intérim	6	2	4	6	9	12
CDI privé	54	56	55	54	53	48
CDI public	11	17	12	8	8	6
Total	100	100	100	100	100	100
Nombre d'actifs occupés (en milliers)	nd	616	461	466	319	208
Sortis depuis 5 à 10 ans de formation initiale						
Non salariés	6	8	6	7	4	5
Salariés	94	92	94	93	96	95
Emploi temporaires	15	9	8	15	22	26
dont intérim	3	1	2	3	6	8
CDI privé	62	52	69	62	65	63
CDI public	17	31	16	15	9	6
Total	100	100	100	100	100	100
Nombre d'actifs occupés (en milliers)	nd	951	789	901	671	418
Sortis depuis 11 ans et plus de formation initiale						
Non salariés	14	17	13	13	13	11
Salariés	86	83	87	87	87	89
Emploi temporaires	7	4	4	6	7	10
dont intérim	1	0	0	1	2	2
CDI privé	59	45	59	58	64	63
CDI public	20	33	25	23	16	16
Total	100	100	100	100	100	100
Nombre d'actifs occupés (en milliers)	nd	2,338	2,298	3,068	5,628	5,476

*BEP*: brevet d'études professionnelles; *CAP*: certificat d'aptitude professionnelle; *CEP*: certificat d'études primaires.- ne: non disponible.

*Source*: Insee, enquêtes Emploi.

**Table 10 Part-time rates in age groups, according to working hours – 2008**

	part time working hours (per week): (%)				
	All full time jobs	All part time jobs	less than 15 hours	15-29 hours	30 hours and more
12-24 y. o.	77.0	23.0	5.3	12.7	4.9
25-49 y. o.	84.5	15.5	1.9	8.3	5.3
≥ 50 y. o.	81.2	18.5	4.0	10.0	4.8
All employed ≥ 15 y. o.	83.1	16.9	2.7	9.1	5.1

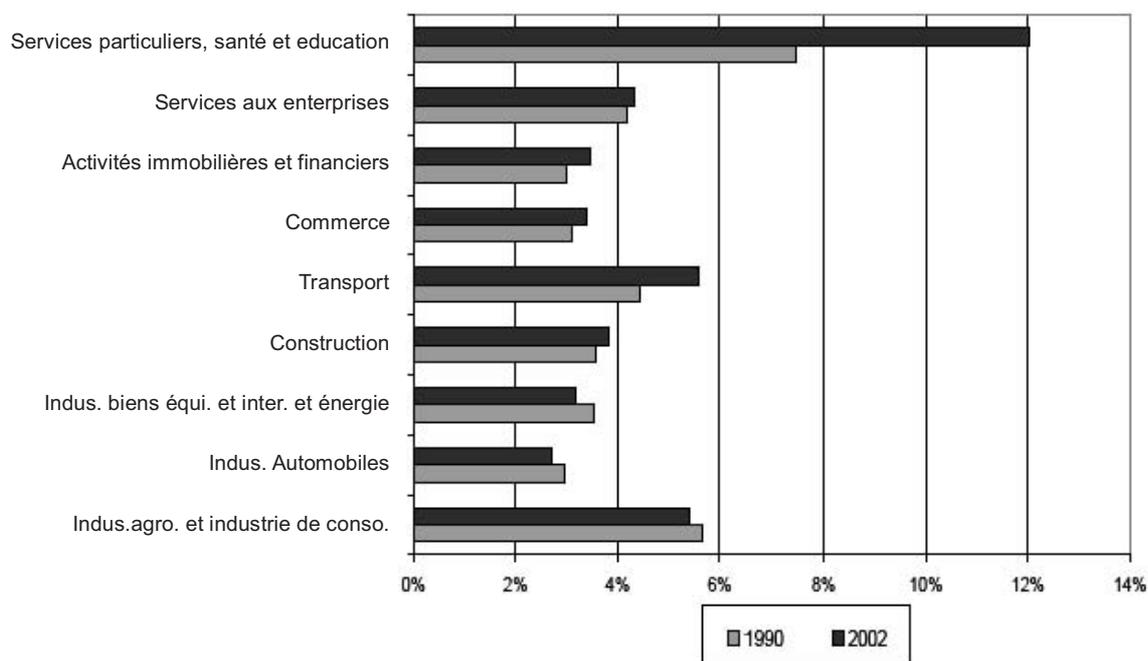
*Source*: INSEE Enquêtes Emploi 2008.

**Table 11 Growth of temporary status (changes of rates over total employment)**  
(%)

	Fixed-term contracts	TAW	Subsidized contracts	Apprentices
1985	3.6	0.4	1.1	0.7
1990	4.8	0.8	1.8	0.8
1995	5.6	1.0	2.8	0.7
2000	7.0	1.8	2.6	1.0
2005	6.9	2.1	1.7	1.3
2007	7.1	2.1	1.7	1.4
2008	8.3	2.1	??	1.3

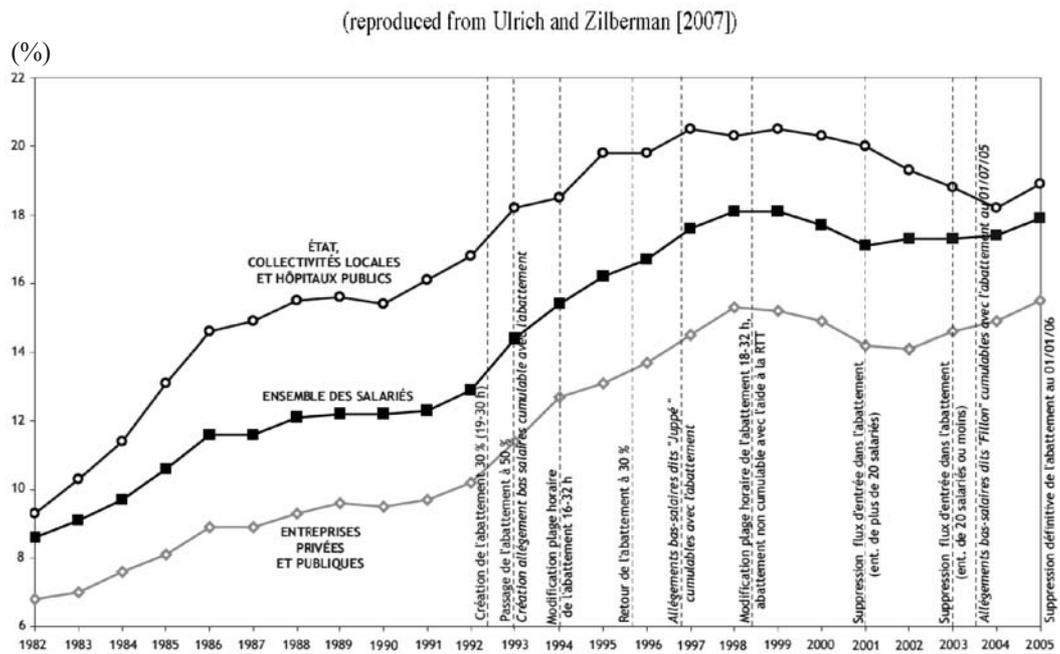
Source: INSEE, enquêtes Emploi.

**Figure 1 Distribution of fixed-term contracts, according to economic sectors (private sector, 1990-2002)**



Reproduced from Bunel [2007] -source: INSEE, Enquêtes sur l'emploi.

Figure 2 Part-time rates 1982-2005 (over all employees)



All employees (employees of individuals excepted) -source: INSEE, Enquêtes Emploi.

# Non-regular Employment in the Netherlands

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## Abstract

Non-regular employment has achieved an important position in the Netherlands. Part-timers nowadays account for over 50 per cent of total employment. At the same time, a process of 'regularisation' has resulted in an important equality with full-time employment in terms of wages, employment stability, social security, etc. Part-time employment therefore tends to be considered no longer 'atypical' or 'non-regular'. In addition, there have been important developments in the legislation of flexible employment, in particular through the Flexibility and Security Act from 1999 which aims to strike a balance between the needs for flexibility and security. All these developments have drawn extensive praise in recent years. The rise in part-time employment has been considered an integral part of the strong economic performance of the Dutch 'poldermodel' and the regulation of flexible employment a major example of 'Flexicurity'. This report discusses these developments by underlining the importance of various national agreements between employers and employees that have shaped industrial relations in recent decades. In addition, it discusses the current characteristics of part-time and flexible employment. The data illustrate that important challenges and concerns remain. This, for example, concerns the low participation of women in the labour market when expressed in terms of working hours and the rise in flexible employment in recent years. The latter may no longer be in accordance with the objectives of the Flexibility and Security Act and deserves particular attention.

## 1. Introduction

Several aspects set the development and characteristics of non-regular employment in the Netherlands apart. This holds for both part-time and flexible employment. First, the Dutch labour market knows a very high percentage of part-time employment, in particular among female workers, and the Netherlands have been described 'as the only part-time economy of the world' (Freeman 1998: 2). Visser et al. (2004: 192) have argued that 'the dynamics of transitions in the Dutch labour market largely revolves around part-time work'. Moreover, a process of 'regularisation' during recent decades has resulted in an important equality with full-time employment in terms of wages, employment stability, social security, etc. Part-time employment therefore tends to be considered no longer 'atypical' or 'non-regular' (Plantenga 2002; Visser 2002). Concerning flexible employment, a new legal framework was developed during the second half of the 1990s. At its heart is the Flexibility and Security Act from 1999 which aimed to strike a balance between flexibility and social security. The law, together with

the possibility of alternative provisions through collective labour agreements, has had a major impact on the position of flexible workers.

These developments have drawn extensive praise in recent years. The rise in part-time employment is considered to have provided an important contribution to the relatively strong economic performance of the Dutch 'Poldermodel' since the 1990s (e.g. Economist 2002a, 2002b; Visser and Hemerijck 1997). Moreover, this praise has extended to the regulation of flexible employment and the attempt to find a new balance between flexibility and security in the labour market. The Flexibility and Security Act and its wider framework have become a renowned example of 'Flexicurity', the 'policy strategy that attempts, synchronically and deliberately, to enhance the flexibility of labour markets, work organizations and labour relations, on the one hand, and employment and income security, notably for weaker groups in and outside the labour market, on the other' (European Commission 2006: 77). The developments in the Netherlands have been an important inspiration behind the current Flexicurity policies in the EU (e.g. Auer 2007; European Commission 2006, 2007; Storrie 2002; Wilthagen 1998, 2008; Wilthagen et al. 2004).

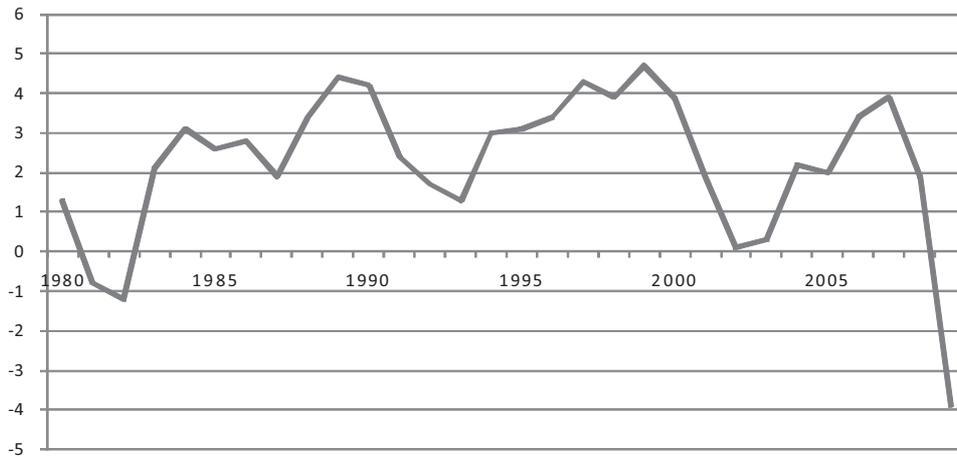
This report discusses the current characteristics of part-time and flexible employment. Although part-time employment may no longer be considered non-regular in the Netherlands, its inclusion is justified for comparative purposes. Moreover, we need to assess the extent of its regularisation. However, the report will predominantly focus on the position of flexible employment given its more atypical character. It draws on various sources, including official statistical databases, agreements reached by employers' representatives and unions, academic literature, and official evaluations of the newly introduced legislation. In addition, I have interviewed representatives of the major employers' organisation for temporary work agencies (ABU) and two unions representing flexible workers (FNV Bondgenoten, CNV Dienstenbond).

The structure of the report is as follows. It first presents some data about the Dutch economy and labour market to provide the necessary context for the discussion of non-regular employment. A subsequent section on the basic structure of industrial relations in the Netherlands provides further background. This section includes a discussion of the 'Wassenaar Agreement' from 1982 and the 'New Course Agreement' from 1993, two accords between employers and unions that have shaped the developments in recent decades. The report will then discuss the position of part-time and flexible workers in greater detail. In case of the latter, this includes an elaborate discussion of the current legislation and the importance it allows for collective labour agreements. The report ends with a discussion of ongoing concerns and some basic reflections.

## **2. Basic Data of Dutch Economy and Labour Market**

This section describes the Dutch economy and its labour market by focusing on several major economic indicators. The first figure shows the changes in Gross Domestic Product (GDP) since 1980. Striking is the weak economic performance in the early 1980s that inspired the Wassenaar agreement between employers and unions. Two other periods of decline are visible, in the early 1990s and the early 2000s. However, overall the data illustrate the relatively strong performance of the Dutch economy, in particular during the 1990s.

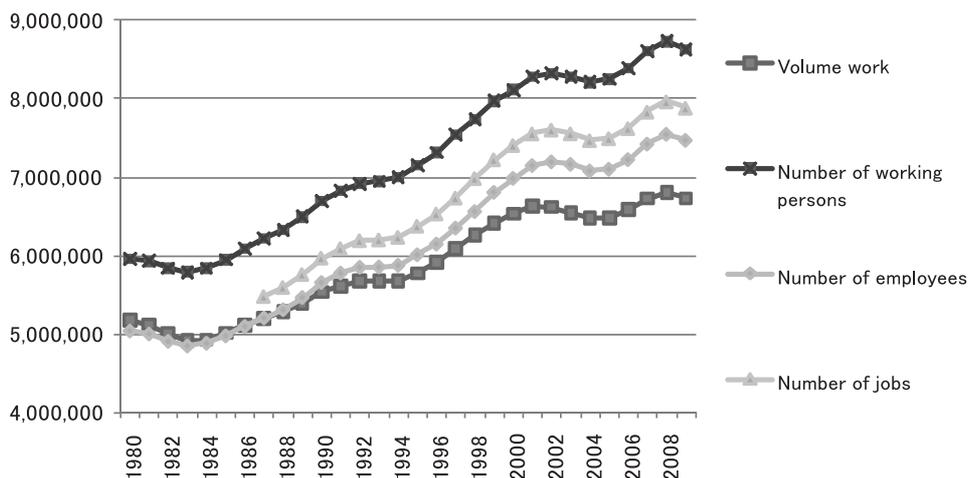
**Figure 1 Changes in Gross Domestic Product 1980-2009 (%)**



Note: The data for 2008 and 2009 are provisional.  
 Source: Statistics Netherlands (CBS), Statline.

The next figure shows the developments in terms of the volume of work and the number of working persons, jobs and employees. It illustrates the strong rise in employment since the 1980s, again in particular during the 1990s. The difference between the volume of work, expressed in annual hours of full-time jobs, and the number of working persons provides an early illustration of the importance of part-time employment. As illustrated by Figure 3, the rise in employment has had a major and positive impact on the participation rate, in particular among female workers. The data on unemployment are accordingly. After reaching its highest point in the early 1980s, there has been a long-term decline. So far unemployment has remained even rather low during the current recession (see Figure 4).

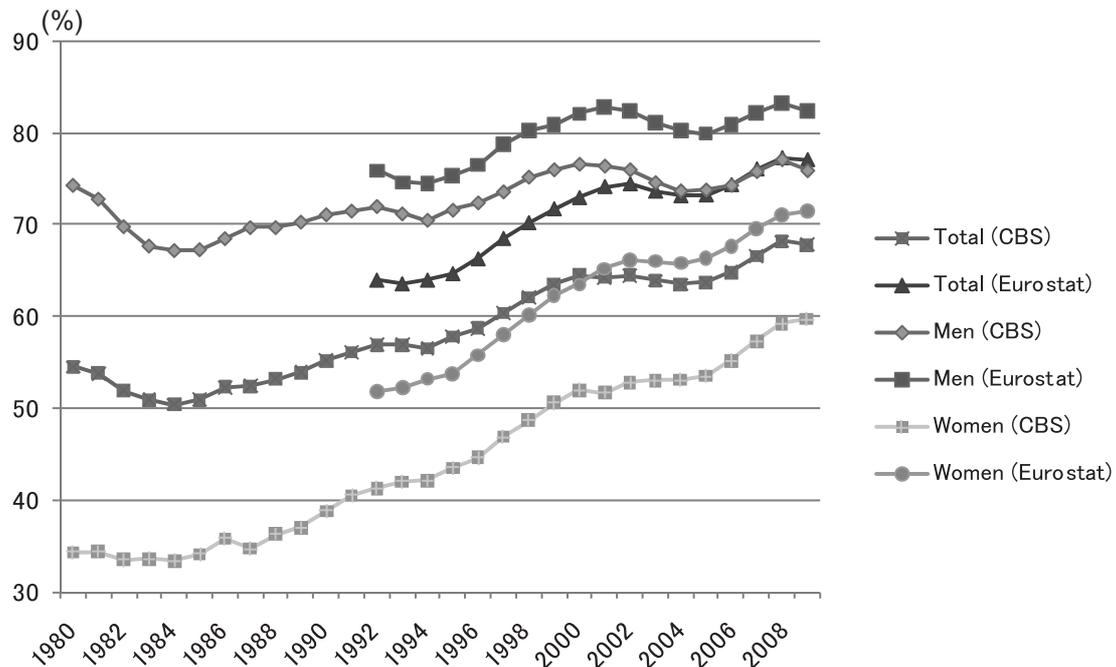
**Figure 2 Developments in volume of work (in annual hours of full-time jobs) and number of working persons, employees and jobs**



Notes:

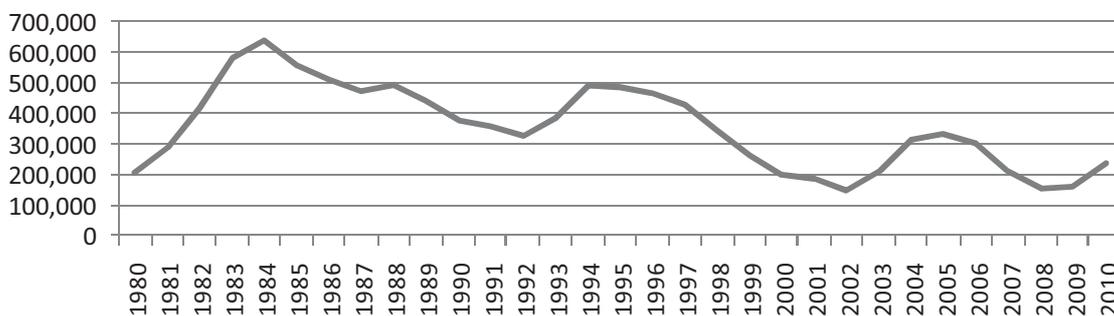
- Employees working less than 12 hours are usually excluded by Statistics Netherlands (CBS). This is illustrated by the higher number of employees when measured according to the international definition.
- The data for 2008 and 2009 are provisional.

Source: Statistics Netherlands (CBS), Statline.

**Figure 3 Net labour market participation (CBS) and employment rate (Eurostat)***Notes:*

- The net labour market participation is defined as the working share of the potential working population. The working population according to Dutch definition includes all persons who (1) work at least 12 hours per week, (2) have accepted work for at least 12 hours per week, or (3) are actively searching for work for at least 12 hours per week.
- The CBS data for 2008 and 2009 are provisional.
- CBS introduced a revision of its weighing method in 2001. The 2001 data according to the previous method were 65.0% for all, 76.5% for men and 53.2% for women.
- The employment rate represents employed persons (Labour Force Survey concept) as a percentage of the population. Persons in employment according to the LFS are those aged 15 years and over living in private households who did any work for pay or profit for at least one hour during the reference week of the survey, or who were not working but had jobs from which they were temporarily absent. Family workers are included.

*Sources:* Statistics Netherlands (CBS), Statline; Eurostat, Labour Force Survey.

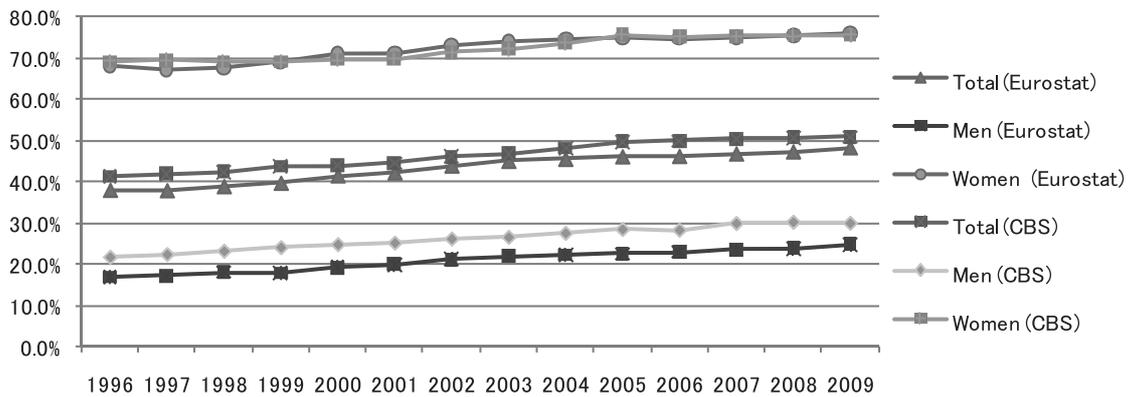
**Figure 4 Registered unemployment***Notes:*

- The data for the years 1980-1988 concern the month of January. The data for the years 1989-2010 concern the December-February average.
- The unemployed are defined as persons without work or working less than 12 hours per week, who actively seek employment for more than 12 hours per week and are immediately available.

*Source:* Statistics Netherlands (CBS), Statline.

A final issue concerns the share of non-regular employment. Figure 5 illustrates the importance of part-time employment, in particular among women. A part time job in the Netherlands is defined as ‘a job for which there is a permanent contract and for which a fixed number of hours was agreed that is less than the number of hours in a full day’s or working week’ (Statistics Netherlands, Statline). The figure includes both data by Statistics Netherlands (CBS) and Eurostat and although the precise numbers differ, the implications are clear. Over 50 per cent of all and over 75 per cent of female employees work part-time.

**Figure 5 Share of part-time employment (as percentage total employment)**

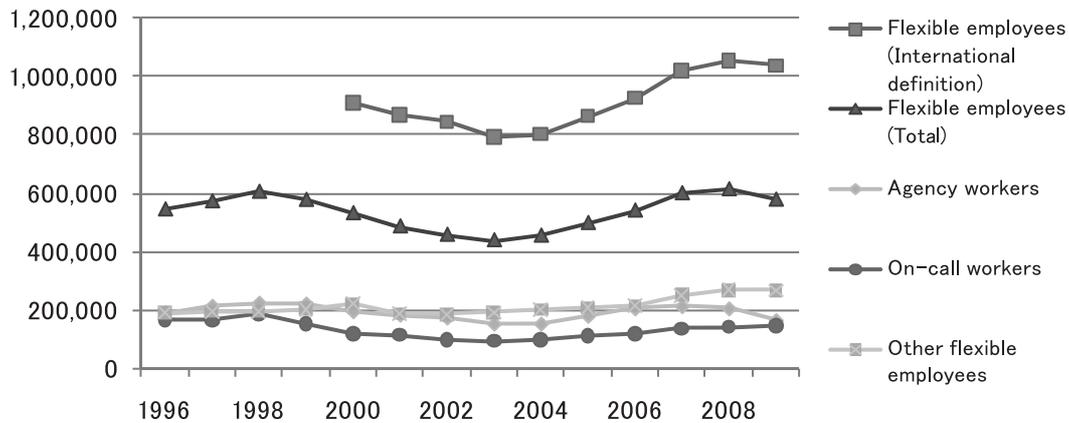


*Notes:*

- The CBS data included concern all employees who perform work, even if it is only one or several hours per week.
- The CBS data for 2008 and 2009 are provisional.

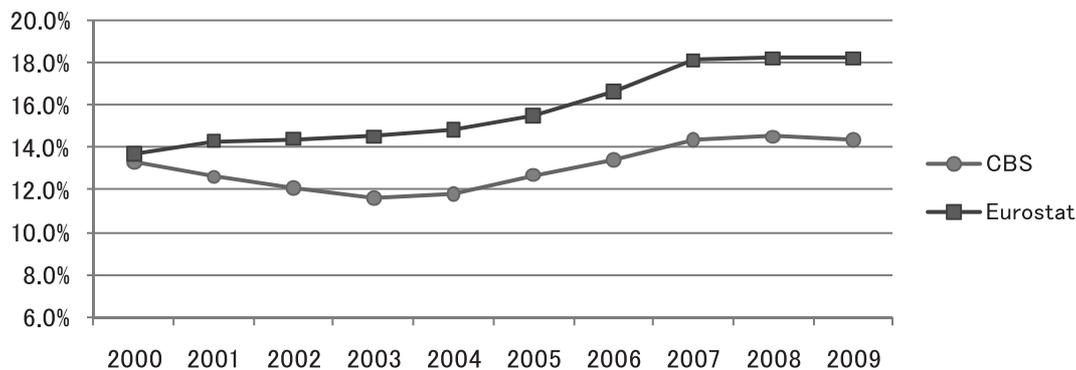
*Sources:* Statistics Netherlands (CBS), Statline; Eurostat, Labour Force Survey.

The data on flexible employment pose greater challenges. Figure 6 present the development of flexible employment according to Statistics Netherlands which defines a flexible employment contract as an ‘employment contract without a fixed relationship or specified duration’ (Statline). The figures are specified for workers at temporary work agencies (TWAs), on-call workers, and a rest category. The statistics do not specify fixed-term contracts but it is safe to assume that they constitute the majority of the rest category (Tijdens et al. 2006). The figure illustrates the dependence of flexible work on economic circumstances with a decline during the recession in the early 2000s. The number of flexible workers nevertheless seems rather stable in absolute numbers, although there are important changes in the importance of specific types, and thus translates into a relative decline given the rising number of employees (see Figure 2). 7.75 per cent of all employees in 2009 were flexible workers while that share, for example, stood at 10.4 per cent in 1998 (Ibid.). Given the practice of Statistics Netherlands to exclude employees working less than 12 hours per week, the data are likely to underestimate the number of flexible jobs as they often tend to be relatively small. This is illustrated by the inclusion of the data on flexible employees as calculated according to their international definition. It is also illustrated by Figure 7 which shows flexible employment as share of total employment.

**Figure 6 Flexible employment (absolute numbers)**

*Note:* Statistics Netherlands introduced a revision of its weighing method in 2001. The 2001 data included here are according to the new method. The revision resulted in the 'decline' of 17,000 flexible employees, 4,000 agency workers, and 14,000 other flexible workers compared to the previous method.

*Source:* Statistics Netherlands (CBS), Statline.

**Figure 7 Share of flexible employment (as percentage total employment)**

*Sources:* Statistics Netherlands (CBS), Statline; Eurostat, Labour Force Survey.

Studies on flexible employment in the Netherlands tend to use these data by Statistics Netherlands. However, other data are available. Statistics Netherlands measures the number of flexible workers at a particular point in time but others provide so-called 'flow figures', indicating the total number of workers in a single year (Wilthagen et al. 2005). According to this definition the number of agency workers amounted to 734,000 (ABU, 2009). Alternative data have also been provided by the UWV ('Uitvoeringsinstituut Werknemersverzekeringen'), the organisation commissioned by the Ministry of Social Affairs and Employment to administer the various employee insurances. Table 1 presents its figures on permanent and flexible employment as based on the number of insured employees. These data differ substantially from those by Statistics Netherlands and the UWV estimates the flexible share of all employees for 2009 at 34 per cent. One explanation for this higher figure concerns the inclusion of so-called 'independents without personnel' ('Zelfstandigen Zonder Personeel, ZZP-ers). They are one-person 'businesses' that are often in a similar position as employees.

Knecht et al. (2007) estimate that about one in every three ZZP-ers is quasi-independent because they work for just one or two principals, often their previous employer. The ZZP-ers are likely to be among the first to be affected by a change in labour demand as indicated by their decline since the fourth quarter of 2008 after years of a very strong growth (UWV, 2010). However, the inclusion of ZZP-ers and short-term flexible jobs up to 12 hours within the data by Statistics Netherlands still leaves a discrepancy of over 10 per cent. The UWV and Statistics Netherlands are currently evaluating the causes of this discrepancy (Ibid.).

**Table 1 Persons with an open-ended contract and in the flexible layer**

	1996	2006	2007	2008	2009	Growth 2007-2008	Growth 2008-2009
Flexible employees (1)	862	1,688	1,794	2,021	1,999	12.7%	-1.1%
Agency	247	368	377	389	323	3.2%	-17.0%
Other	615	1,320	1,417	1,632	1,676	15.2%	2.7%
Permanent employees (2)	4,108	5,065	5,080	5,134	5,108	1.1%	-0.5%
'Independents without personnel' (ZZP-ers) (3)	397	584	611	652	629	6.7%	-3.5%
Flexible layer (1 + 3)	1,258	2,272	2,405	2,673	2,628	6.7%	-3.5%
Share flexible layer	23%	31.0%	32.1%	34.2%	34.0%		

Source: UWV (2010: 32).

### 3. Major Aspects of Dutch Industrial Relations

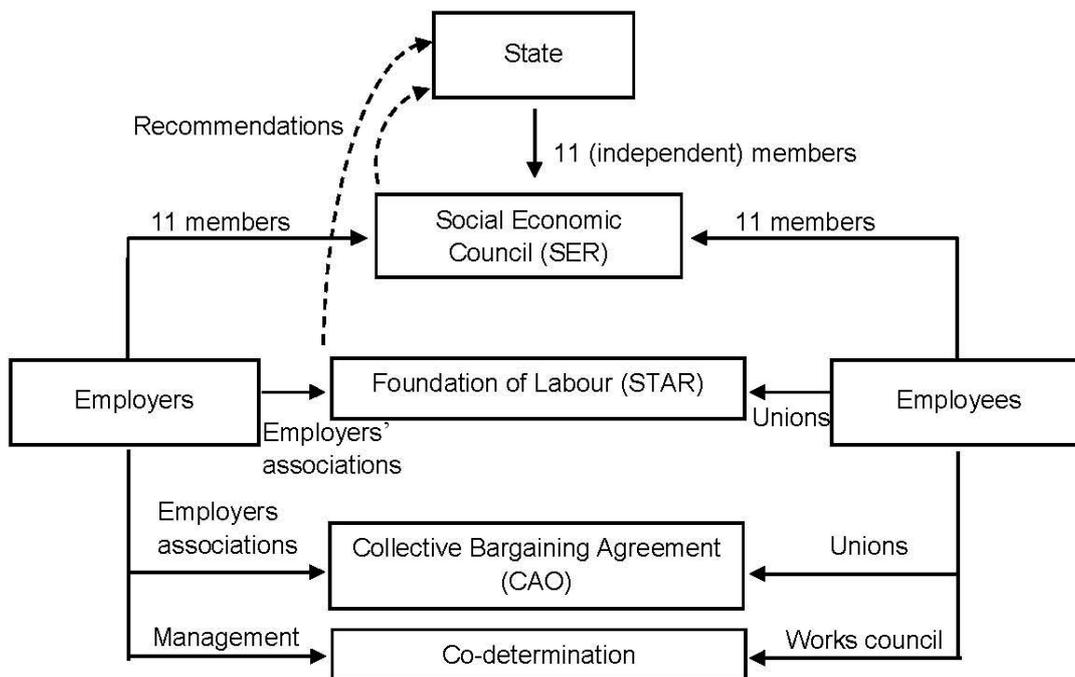
A major determinant to the developments in the Dutch labour market has been the consultation and cooperation between social partners through various consultative bodies. In the Netherlands, both unions and employers are well organised at the national level by three confederations. The three main union confederations are the Confederation of Dutch Trade Unions (Federatie Nederlandse Vakbeweging, FNV), the Christian-National Union Confederation (Christelijk Nationaal Vakverbond, CNV), and the Association for White Collar and Senior Staff (Vakcentrale voor Middengroepen en Hoger Personeel, MHP). The three employers' confederations are the Confederation of Netherlands Industry and Employers (Verbond van Nederlandse Ondernemingen - Nederlands Christelijk Werkgeversverbond, VNO-NCW), the Employers' Association for Small and Medium-Sized Enterprises (Midden- en Kleinbedrijf Nederland, MKB) and the Employers' Association for Agricultural Businesses (Land- en Tuinbouworganisatie Nederland, LTO).

At the industry level, employers and unions negotiate collective labour (bargaining) agreements (Collectieve Arbeidsovereenkomst, CAO). Two laws define the process of collective bargaining: the 1927 Law on Collective Labour Agreements (Wet op de Collectieve Arbeidsovereenkomst, Wet CAO) and the 1937 Law on the General Extension of Provisions in Collective Labour Agreements (Wet op het Algemeen Verbindend Verklaren van bepalingen van Collectieve Arbeidsovereenkomsten, Wet AVV). The latter law enables the government to declare an agreement generally binding. These laws make it possible that over 80 per cent of employment contracts in the Netherlands are covered by a collective labour agreement in spite of union membership being limited to about 20 per cent. Houwing (2010) points out how the high coverage rate can be ascribed to the organisation rate of employers (about 85 per cent), the general application of the agreement to non-union workers in

participating firms, and the extension of collective agreements by the government. At the organisational level, interaction is shaped by the Work Councils Act (Wet op de Ondernemingsraden) from 1971 which requires a works council in any firm with 50 employees or more.

Figure 8 shows the different types of coordination that employers and employees engage in. As pointed out by Visser and Hemerijck (1997: 91), '[p]hysical and social distances in the Netherlands are small' and '[t]op officials and their advisors in trade unions and employers' associations meet frequently'. Two major organisations have been core to the consultation between employers, unions and the government. The Social-Economic Council (Sociaal-Economische Raad, SER) is a tripartite organisation established in 1950. It forms the main advisory body to the Dutch government and parliament on social and economic policies. Employers and unions each have eleven seats and the government appoints eleven 'crown' members. The second major consultative body is the Foundation of Labour (Stichting van de Arbeid, STAR), established in 1945. Both unions and employers have ten seats and the chair rotates between VNO-NCW and FNV. It is within the STAR that the important agreements, in particular the Wassenaar and New Course agreement, have been negotiated. The remainder of this section will discuss these agreements in greater detail.

**Figure 8 Consultation and bargaining social partners**



Source: Pot et al. (2001: 23).

### 3.1 The Wassenaar Agreement

The Wassenaar Agreement from 1982 has been referred to as the 'mother of all accords' and a watershed in Dutch industrial relations (Visser and Hemerijck 1997: 82). The agreement between the leaders of the main union (FNV) and employers' association (VNO) was originally known as the 'Central Recommendations regarding Aspects of Employment Policy'

but became known as the Wassenaar Agreement after the city where it was reached. Confronted with rising unemployment, the agreement exchanged wage moderation for collective working time reduction (work-sharing). Major objectives were the recovery of profitability of business and the reduction of (youth) unemployment. Part-time employment was listed as one of the ways to redistribute existing employment. The response to the agreement was fast and two thirds of all collective labour agreements were renewed (Visser and Hemerijck 1997). It brought a return to wage moderation, a first step towards the decentralisation of collective bargaining, and the introduction of collective working time reduction. Moreover, it contributed to the rise in part-time employment and provided new impetus to the consultation and coordination by the social partners.

The development and the consequences of the Wassenaar agreement have been elaborately discussed by Visser and Hemerijck (1997) in their seminal analysis of the Dutch 'Poldermodel'. In this section, which is highly based on this analysis, I would like to limit the discussion to some core aspects. The agreement was reached under challenging economic circumstances. The Dutch economy was severely hit by the second oil crisis of 1979 and the recession was severe. The representatives of employers and unions agreed that something needed to be done but repeatedly failed to achieve meaningful agreement. At several times during the previous years, the government had imposed a wage stop or a limit to potential wage increases. Moreover, the new government of Christian Democrats (CDA) and Conservative Liberals (VVD) announced its austere policies just two days before the Wassenaar agreement. In this context, there was a strong pressure on the unions to reach an agreement. Employers were also keen on an agreement as it would reduce the likelihood of direct government intervention.

The agreement itself was rather short and, including all signatures, limited to two pages. After several considerations concerning the existing employment situation, it argued the need 'to introduce a long-term approach aimed at re-distributing existing employment more effectively; i.e. an approach which encompasses several methods of re-distributing employment, such as working time reduction, part-time work, and efforts to reduce unemployment among young people' (STAR 1982). At the same time, 'a better distribution of existing employment should not result in higher costs' (Ibid.). In order to achieve these objectives, the parties subscribed to the need for 'collective bargaining partners having the exclusive right to renegotiate between them wage agreements already set out in collective bargaining agreements' and urged 'the Cabinet to do everything possible to enable the collective bargaining partners to negotiate freely with one another on the basis of the above recommendations' (Ibid.).

The consequences were several and they all contributed to the agreement's fame in subsequent decades. First of all, it resulted in wage moderation by Dutch unions as an important strategy to allow investment and job growth. Secondly, the agreement contributed to the decentralisation of collective bargaining, a development that was continued and strengthened by the subsequent New Course Agreement of 1993. The Wassenaar agreement was only a recommendation as exemplified by its content being limited to a single page. This was originally considered a weakness. However, as pointed out by Visser and Hemerijck (1997: 82), the willingness to settle for recommendations proved advantageous as 'soft agreements are easier to reach' and 'relieve the negotiators from the requirement to ask all of their members for approval of everything they sign and make approving members less vulnerable to pressure of members who disagree'.

Thirdly, there was the issue of work sharing. This issue had long divided employers and unions and the Wassenaar agreement therefore was a major development. At the same time, the actual achievements in working time reduction have been considered limited. Employers accepted a general round of working time reduction from 40 to 38 hours per week in exchange for the aforementioned wage moderation. However, they proved unwilling to accept further reductions (Portegijs et al. 2008; Visser and Hemerijck 1997). Moreover, unions became less convinced about the value of collective working time reduction; in particular because the results in terms of job creation had been disappointing. Visser and Hemerijck (1997: 103) refer to research by the Netherlands Institute for Social Research (Centraal Planbureau, CPB) which estimated that only '25 percent of the reduction of working hours in the private sector has been translated into extra jobs'. Instead, the agreement opened the way for an increase in part-time employment which was included in the agreement as one of the potential 'methods of re-distributing employment'. Unions had long taken a negative attitude towards part-time employment because it tended to have inferior working conditions. However, this slowly changed in the years after the Wassenaar agreement when the growth in part-time employment became dominant. As pointed out by Visser (2002: 30) '[n]early all job redistribution took the form of part-time work and part-time employment became the 'job motor' of the Dutch economy in the 1980s'. Tijdens (2006, as referred to by Portegijs et al. 2008: 28) has therefore described the Wassenaar agreement as the 'major turnaround' in the development of part-time work in the Netherlands. A later section on the rise in part-time employment discusses this development in greater detail.

The contribution of the Wassenaar agreement was not limited to these specific developments. Its success provided an important boost to national consultation as a means to address the challenges in the labour market and the agreement is inextricably bound up with the success and subsequent fame of the Poldermodel. Visser and Hemerijck (1997: 81) therefore describe the agreement as 'a celebrated symbol of corporatism regained'. They also make the important observation that consensus was as much an outcome as an input of the agreement. The following citation illustrates their assessment.

The Accord of Wassenaar market the return to a policy of voluntary wage restraint on the part of the unions, a policy which they did continue, with some hesitation, during the next 15 years. The renewal of the corporatist strategy of flexible adjustment in 1982 was the result of a strong signal from the market – in particular unemployment and the erosion of union bargaining power. The policy of wage restraint did not begin with a consensus, but produced a consensus. Nobody could assure success, and there was no apparent success in the first years after Wassenaar, at least not for the trade unions and their members.

Visser and Hemerijck (1997: 109-10)

The unions therefore deserved credit for their perseverance in spite of a lack of early results. As indicated, the success in terms of working time reduction was somewhat disappointing. The real success came with the rise in part-time employment but this took several years to develop and the influence of the Wassenaar agreement was therefore not directly visible (Portegijs et al. 2006). However, once the results became visible the Wassenaar agreement achieved its fame as the defining moment in Dutch industrial relations and this remains to this very day. The Poldermodel has received its fair share of criticism over the years (e.g. Delsen, 2001) but remains an important point of reference. An arbitrary overview of newspaper articles during recent years is insightful. Illustrative titles include 'New Wassenaar agreement needed' (Trouw, 28/02/2009), 'Exciting days for the

poldermodel' (Trouw, 13/03/2009) and 'Three cheers for the poldermodel' (De Pers, 09/11/2009).

### **3.2 The New Course Agreement**

The influence of the Wassenaar accord is well illustrated by another major agreement within the Foundation of Labour, the New Course Agreement from 1993 (STAR 1993). It was the response to a new period of economic decline in the early 1990s with renewed pressure for wage moderation. The full title of the agreement was 'A New Course: Agenda for collective bargaining in 1994 from a medium-term perspective'. The subtitle is insightful as the new course did not just concern 1994 but provided a perspective for the upcoming years. Core to the new course was a need for customisation and diversity as it was felt that representatives of both employers and employees needed more freedom to deal with the specific demands in the different sectors. It meant that only global agreements would be made at the central level while the specifics would be determined at the level of industries. Visser and Hemerijck (1997) provide the following assessment of the agreement.

Employers get further decentralization and flexibility, the unions promise that the central employers organizations will give up their blanket resistance against working hours reduction and that local union representatives will be involved in negotiations over local solutions. Both parties stress the need to increase the employment/population ratio and they recommend part-time work as a possible solution to the combined pressure of work and child care.

Visser and Hemerijck (1997: 107-8)

Several outcomes of this agreement are reminiscent of Wassenaar. First of all, it resulted in further decentralisation of the negotiations between industrial partners. Secondly, it contributed to wage moderation. Collective working time reduction also returned as a topic of collective bargaining because unions continued to see this as a means to job creation. In accordance with the greater decentralisation, the national employers' organisations no longer attempted to coordinate and veto its development through central coordination. However, the results were mixed and most employment growth continued to be part-time. There was a further decrease to 36 hours a week among large groups of employees but this reduction was far from universal. Finally, the agreement confirmed the importance of consultation as a means to address the problems in the labour market. Visser and Hemerijck (1997: 112) point out how the agreement came after 'the trust-building experience of eleven years'. Moreover, the agreement did not only build on but also confirmed the direction taken through the Wassenaar agreement.

## **4. Part-time Employment**

The original rise of part-time employment in the Netherlands has been a rather autonomous process but was eventually complemented and accelerated by labour market policies, the support of social partners, and new legislation. This section describes this process before it discusses the current characteristics of part-time employment.

### **4.1 The rise and 'regularisation' of part-time employment**

Part-time employment in the Netherlands developed from the 1950s when a few firms introduced part-time jobs for married women to compensate for the existing (female) labour shortage (Portegijs et al. 2008). However, the initial rise in part-time employment was

relatively modest, just like the overall labour market participation by women. In the early 1970s the Netherlands had a female participation rate below 30 per cent, the lowest rate among OECD countries (Visser 2002; Visser and Hemerijck 1997). However, the situation changed from the 1970s when part-time employment became the dominant form of rising participation in the face of limited childcare facilities and a related and well-established cultural principle of 'home care' for children (Pfau-Effinger 1998). Visser (2002) lists three important developments that supported the initial rise in participation: fewer women withdrew from the labour market after marriage, diminished labour market participation among older employees (where women were particularly underrepresented), and increased participation because of higher educational levels. Underlying factors included declining fertility rates and emancipation (Visser and Hemerijck 1997). The process was strengthened by the tight labour market of the 1970s which inspired employers to hire more married women. Regulatory changes provided further support. For example, 1973 saw the introduction of a law against the dismissal of women in case of marriage or pregnancy and tax reforms that diminished the extent to which the 'extra' income of the wife was taxed away (Visser 2002). Government policies first focused on part-time employment as one of the instruments to reduce unemployment and a means to strengthen the emancipation of women (SZW 1975).

The social partners did not yet play a role in the discussions on part-time employment but this changed during the 1980s in response to the Wassenaar agreement and its outcomes. Employers considered part-time employment as an ideal alternative to collective working time reduction 'because it is an individual choice and allows differentiation across groups of workers, disconnects operating hours from working hours, brings actual and contractual working hours nearer as part-time workers tend to be sick in their own time, and is reversible' (Visser and Hemerijck 1997: 34-5). Complemented by a strong supply of young and female workers, it proved a successful strategy. Moreover, there was strong support from the government. Not only because of policy considerations (SZW 1987) but also because the ambition of female civil servants to work part-time enabled the reduction of staff and thus state expenses.

As mentioned, Dutch trade unions originally shared the scepticism of their international counterparts that a rise in part-time employment would result in a secondary an non-unionised labour market (Portegijs et al. 2008). However, this attitude changed during the 1980s, partly in response to the Wassenaar agreement and its outcomes. They became less convinced about the positive results of collective working time reduction, especially when faced with continued opposition from employers. Moreover, the increased size of the part-time labour force provided this group with more cloud within the unions (Visser 2002). Visser and Hemerijck describe the change in attitude as follows.

In 1986, both FNV and CNV, under pressure of membership decline, began to draw up projects that could make them more effective in a changing membership market. A more market – or target group – oriented approach became the basis for a more positive policy towards women, part-time and flexible workers. Typically, Dutch unions have gone through the learning curve of, first, trying to deny, then, to prohibit flexibility... When that did not work, they demanded quantitative restrictions. Still later, they have come around and adopted a policy of negotiated flexibility, in which they try to regulate with bonafide employers a phenomenon the rise of which they cannot stop.

Visser and Hemerijck (1997: 87)

A new consensus on the need to develop high quality part-time employment was expressed in another memorandum by the Foundation of Labour (STAR 1989). In 1990 the FNV dropped the norm of full-time employment (Portegijs et al. 2008). Several legislative changes strengthened the position of part-time employees. From 1987 they were entitled equal access to the various employee insurances (e.g. unemployment benefits). In 1993 the government abolished the statutory exemption from the legal minimum wage for jobs less than one-third of the normal working week. In 1996, part-timers were awarded an explicit right to equal (pro-rata) treatment in terms of wages, overtime payments, bonuses and training (Visser and Hemerijck 1997; Euwals and Hogerbrugge 2004). Amendments of the tax system in 1990 and 2001 removed certain impediments to the participation of married women, in particular when it concerned small part-time jobs (Portegijs et al. 2008). Finally, the 2000 Adjustment of Working Hours Act/Working Hours (Adjustment) Act [Wet Aanpassing Arbeidsduur, WAA] gave employees the right to alter (reduce and extend) the number of working hours under certain conditions.

Together these developments have contributed to the aforementioned regularisation of part-time employment. Visser (2002: 33) concludes that '[p]art-time jobs are neither atypical nor flexible'. This assessment is shared by Plantenga (2002).

It seems fair to say that part-time jobs in the Netherlands have lost some of their negative image. Part-time jobs are no longer similar to marginal jobs, concentrated in the lower segment of the labour market. In fact, part-time work has become so widespread that it seems to have lost its 'atypical' character'.

Plantenga (2002: 59).

## 4.2 Current characteristics of part-time employment

The recent study by Portegijs et al. (2008) provides further insight in the character of part-time work. The data tend to be limited to female workers but its inclusion is justified by the dominance of women among part-time employment. A first interesting finding of the study is the lack of differences between women with and without younger children (0-11 years). The presence of younger children has often been associated with part-time work, either because women want to take care of their children or because they are unable to arrange childcare. Women with young children in the Netherlands indeed work part-time to a greater extent. However, the differences with other groups are minor. The share of women with older children that works full-time is only slightly higher, and even about 40 per cent of young women without children work part-time. Overall, only 41 per cent of all women working part-time have young children (see Table 2).

**Table 2 Share of part-timers among working women, based on stage of life (%)**

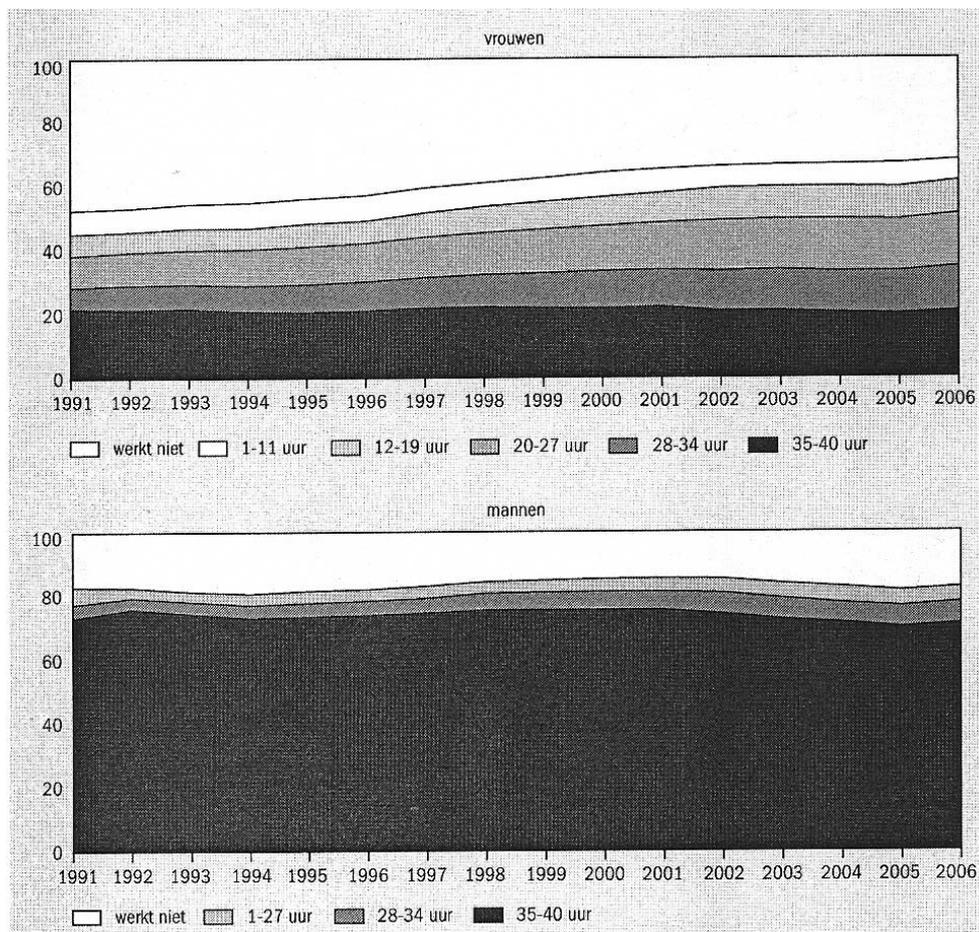
	1992	1995	2000	2006
Living with parents	27	32	40	48
Single, < 40 years	25	28	32	32
Living together, no kids, < 40 years	37	40	38	40
Living together, youngest child 0-3 years	87	89	89	88
Living together, youngest child 4-11 years	89	89	88	89
Living together, youngest child 12-17 years	83	85	85	85
Single parent, child(ren) 0-17 years	71	72	73	75
Single ≥ 40 years	45	50	53	58
Living together, no children, ≥ 40 years	78	78	78	78
<b>Total</b>	<b>60</b>	<b>64</b>	<b>66</b>	<b>70</b>

*Note:* the data are derived from Statistics Netherlands (CBS) and processed by the Netherlands Institute for Social Research (Sociaal en Centraal Planbureau, CPB) .

*Source:* Portegijs et al. (2008: 34).

As an interesting footnote to this prevalence of part-time employment, the data indicate a rise in longer part-time jobs. Figure 9 shows both the rise in labour market participation overall and the relative increase in medium (20-27 hours) and large (28-34 hours) part-time jobs, in particular among female workers. The figure also illustrates that the percentage of full-time working women has hardly changed since 1991 in spite of the rising participation rate.

Figure 9 Working hours per week (%)



## Notes:

- The top half concerns women ('vrouwen'), the bottom half men ('mannen').
- The categories are from top to bottom: no work, 1-11 hours, 12-19 hours, 20-27 hours, 28-34 hours, and 35-40 hours.
- The data are derived from Statistics Netherlands (CBS) and processed by the Netherlands Institute for Social Research (Sociaal en Cultureel Planbureau, CPB).

Source: Portegijs et al. (2008: 33).

Another issue concerns the actual working conditions. They can be considered to be good. This shows probably best in a comparative perspective. Table 3 illustrates how the conditions compare positively to those in five other countries studied by Portegijs et al. (2008). In this sense the regularisation of part-time employment has indeed been achieved. Something similar holds for the job security of female part-timers. Among women, 12 per cent of part-timers have a fixed-term contract, a number that is actually lower than the 14 per cent among full-time workers. Among men, 18 per cent of part-timers and 8 per cent of full-timers have a fixed-term contract. This indicates that there are indeed differences in terms of employment security between full- and part-timers, in particular among men. The study by Portegijs also compares the Dutch situation to five other countries and finds that only female part-timers in the Netherlands and Germany do not have a higher share of fixed-term contracts than full-timers (see Table 4).

**Table 3 Summary of policies for part-time work in six countries**

	Netherlands	UK	Germany	Sweden	France	Spain
Part-time policies are primarily (1) to increase labour market participation by women or (2) to support employers	Women	Employers	Employers	Women	Employers	Employers
Employers and employees contribute to social insurance	Yes	Not for jobs < 100 ponds p/w	Reduced for jobs < 400 euro p/m	Yes	Yes	Yes
Qualify for unemployment benefits	Yes	Not for jobs < 100 ponds p/w	Not for jobs < 400 euro p/m	Not for jobs < 12 hours p/w	Yes	Yes
Qualify for healthcare	Yes	Yes	Not for jobs < 400 euro p/m	Yes	Yes	Yes
Pension scheme	Yes	Not for jobs < 100 ponds p/w	Not for jobs < 400 euro p/m <sup>a</sup>	Yes	Yes	Not in marginal part-time jobs
Right to part-time work	Yes	No <sup>b</sup>	Yes	No <sup>c</sup>	No <sup>b</sup>	No
Right to full-time work	Yes	No	Yes	Part-timers receive priority	Part-timers receive priority	No
Stimulus part-time pension	No	No	Yes	Yes	Yes	Yes

<sup>a</sup> Exception: women in part-time jobs with children under 10 years.

<sup>b</sup> Employers need to give serious consideration to requests by employees.

<sup>c</sup> Only parents of children up to 8 years.

Source: Portegijs et al. (2008: 55).

**Table 4 Share of part- and full-timers with a fixed-term contract, excluding students (%)**

	Women		Men	
	Part-timers	Full-timers	Part-timers	Full-timers
Netherlands	12	14	18	8
UK	6	4	15	3
Germany	8	9	21	8
Sweden	23	11	33	10
France	15	10	22	9
Spain	44	30	48	30

Note: the data are derived from Eurostat, Labour Force Survey 2005.

Source: Portegijs et al. (2008: 57).

However, the regularisation does not extend to all aspects of part-time employment. This holds, for example, for the functional levels at which part-timers work. Table 5 shows that part-time work exists at all levels but continues to be more dominant at lower functions. However, the growth of part-time work has been stronger at medium than at other levels and all levels are now characterised by a majority of part-timers among female employees. Figure

10 compares the share of part-timers and full-timers at different functional levels. In all six countries included there is a greater share of full-timers than part-timers among higher functions (Table 4 and 5). The differences are largest in the UK and Sweden, smallest in France and Spain. It illustrates that the Netherlands do not perform particularly well when it concerns the career possibilities for part-timers. Portegijs et al. (2008) conclude that part-time employment in the Netherlands may be easier to achieve but does not contribute to better career possibilities than in other countries.

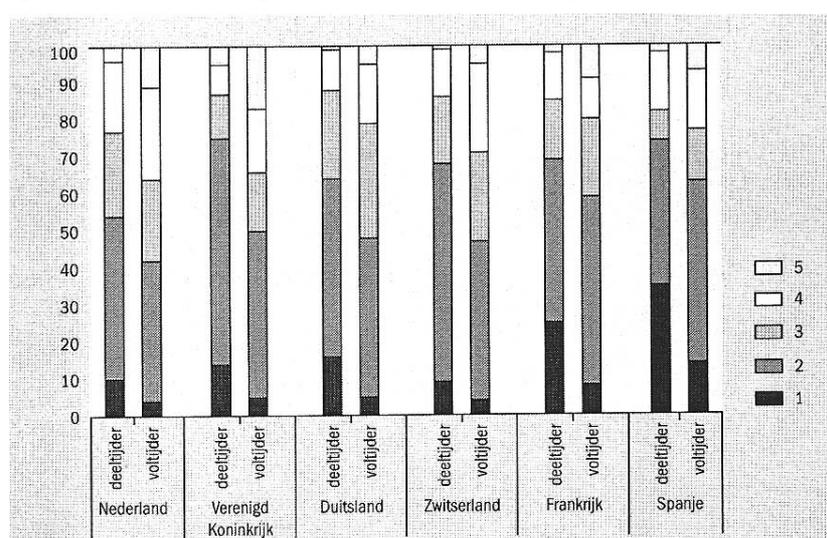
**Table 5 Share of female part-timers by functional level, excluding students (%)**

	1995	2000	2006
Elementary level	71	80	82
Lower functions	64	74	77
Middle-level functions	54	63	70
Higher functions	52	61	62
Scientific functions	48	52	57
Total	64	66	70

*Note:* the data are derived from Statistics Netherlands (CBS) and processed by the Netherlands Institute for Social Research (Sociaal en Centraal Planbureau, CPB).

*Source:* Portegijs et al. (2008: 35).

**Figure 10 Share of part- and full-timers by functional level (%)**



*Notes:*

- The countries included are from left to right: the Netherlands, UK, Germany, Switzerland, France, and Spain. 'Deeltijder' translates as part-timer, 'voltijder' as full-timer.
- Students are excluded from the data.
- The data are from Eurostat, Labour Force Survey 2005.

*Source:* Portegijs et al. (2008: 58).

There are also important differences between sectors. Part-time employment has been traditionally prevalent in agriculture, construction, retail, catering, education and healthcare. The growth in recent decades has been particularly strong in sectors where it was less present but part-time employment remains most prevalent in these sectors (see Table 6).

**Table 6 Share of female part-timers per sector (%)**

	1981 <sup>a</sup>	1985 <sup>a</sup>	1995 <sup>b</sup>	2000 <sup>b</sup>	2006 <sup>b</sup>
Agriculture/fishery	47	66	69	70	#
Industry	31	39	48	52	60
Construction	44	58	49	68	66
Retail/catering	40	49	57	64	67
Transport/storage/communications	39	44	53	55	61
Banking and insurance/financial services	32	42	52	54	62
Other services	53	60	-	-	-
Public government	-	-	50	54	55
Education	-	-	65	70	67
Health and welfare	-	-	74	81	83
Culture/other services	-	-	65	66	69
Total	47	54	64	66	70

<sup>a</sup> Including students<sup>b</sup> Excluding students

*Note:* the data are derived from Statistics Netherlands (CBS) and processed by the Netherlands Institute for Social Research (Sociaal en Centraal Planbureau, CPB).

*Source:* Portegijs et al (2008: 141).

A final issue concerns the contentment among part-time employees concerning their working hours. The next three tables list the preferences based on the current number of hours and the age group of workers. It shows that most employees are satisfied with their current number of working hours. The relative exceptions are part-time men and women working less than 24 hours, where a certain percentage would prefer working longer hours, and women working full-time, where a certain percentage would prefer working shorter hours. It is particularly young (till 25 years) and older (over 60 years) employees that would prefer a change in hours. The relative contentment concerning working hours is also illustrated by the reasons women provide for working part-time. Portegijs et al. (2008) provide the following reasons (multiple answers): the care for children (38%), housework (21%), personal time (17%) and time for socialising and hobbies (13%). Only 3 per cent of women work part-time because they cannot find a full-time job. This number rises to 9 per cent for young women without children.

**Table 7 Employee preferences for number of working hours/week, by current number of hours (2009)**

	Total			Men			Women		
	12-24	24-35	>=35	12-24	24-35	>=35	12-24	24-35	>=35
Prefer more hours	17.0	10.8	3.0	21.6	13.8	3.2	16.0	9.8	2.2
Prefer equal hours	78.2	81.6	89.3	71.6	80.5	90.6	79.5	81.9	84.9
Prefer less hours	4.9	7.6	7.7	6.8	5.7	6.2	4.5	8.2	12.9

*Source:* Statistics Netherlands (CBS), Statline.

**Table 8 Preferences of male employees for number of working hours/week, by age group (2009)**

	15- 20	20- 25	25- 30	30- 35	35- 40	40- 45	45- 50	50- 55	55- 60	60- 65
Prefer more hours	11.7	11.3	9.4	6.3	5.1	4.4	3.8	2.8	1.9	2
Prefer equal hours	79.9	83.9	86.6	88.3	90.3	90.5	91.6	90.6	89	79.2
Prefer less hours	8.4	4.8	4	5.4	4.6	5.2	4.7	6.6	9.1	18.9

Source: Statistics Netherlands (CBS), Statline.

**Table 9 Preferences of female employees for number of working hours/week, by age group (2009)**

	15- 20	20- 25	25- 30	30- 35	35- 40	40- 45	45- 50	50- 55	55- 60	60- 65
Prefer more hours	14.7	17.6	9.7	6.8	8.4	10.7	10.9	8.4	5.2	2.4
Prefer equal hours	73	74	79.1	81.7	83.9	83.3	83.7	85.5	86.7	82.2
Prefer less hours	12.3	8.4	11.2	11.5	7.7	6	5.3	6	8.1	15.4

Source: Statistics Netherlands (CBS), Statline.

A striking issue concerns the development of organisations and functions where 32 hours per week has become the default working week, in particular among women (Portegijs et al. 2008). This can be because of financial constraints in organisations but also because women believe it improves the quality of their work and organisations appreciate the additional flexibility it offers. It contributes to a somewhat changed and more negative perception of part-time employment in recent years. Another important concern that informs this changed perception is the high number of women with small part-time jobs as it does not contribute to their economic independence, nor is it considered sufficient to compensate for the ageing of society (TK 2007/2008). It has inspired the establishment of a taskforce (Taskforce Deeltijdplus) in April 2008 to stimulate larger part-time jobs among women ([www.meerurenwerken.nl](http://www.meerurenwerken.nl)).

## 5. Flexible Employment

The development of flexible employment in recent years has been strongly shaped by the legislation that was developed in the second half of the 1990s, namely the Flexibility and Security Act (Wet Flexibiliteit en Zekerheid, Flexwet) and the Allocation of Workers via Intermediaries Act (Wet Allocatie Arbeidskrachten door Intermediairs, WAADI). This section discusses this legislation together with the possibility it offers to negotiate alternative provisions in collective labour agreements. In addition, it discusses the characteristics of flexible employment and the extent to which flexible employment provides a step towards open-ended contracts.

### 5.1 The rise of flexible employment

Flexible employment in the Netherlands has seen important growth since the 1980s when temporary agency work (TWA) became the dominant type, a development that continued during the 1990s (Pot et al. 2001). Important legislation during these years included the Law on the Deployment of Workers (Wet op de Terbeschikkingstelling van Arbeidskrachten) from 1965 (but only actively implemented in 1970) and the Law on the Provision of Labour

(Arbeidsvoorzieningswet) from 1990 (amended in 1996). Both laws included a licensing scheme that required approval of TWA companies. During these years agency work became more accepted in the Dutch labour market and increasingly seen as performing an important intermediary role. Houwing (2010: 50) has described this development as follows: ‘The Dutch TWA industry went from being an industry with a bad reputation in the 1960s, through a process of gaining some legitimacy in the 1970s, to achieving a certain degree of acceptance as a useful tool to temporarily solve labour market rigidities in the early 1980s’.

The following tables present the current importance of flexible employment beyond the aggregate data presented in section two. Detailed data on the relative importance of flexible employment across industries is not widely available. However, a study by Knegt et al. (2007) among 1050 employers provided the data as presented in Table 10. The top half of the table shows to what extent firms in certain industries make use of the various employment types. The bottom half of the table shows the quantitative importance of these types in the various industries. The table shows the relative importance of fixed-term contracts in ‘trade, retail, reparation, hotel and catering’ and ‘services’, and the relative importance of TWA in ‘trade, retail, reparation, hotel and catering’. Tables 11 and 12 present the main reasons firms provide for hiring respectively flexible employment and fixed-term contract workers.

**Table 10 Firms with open-ended and flexible types of employment, and the average share of employment types, by sector (%)**

	Agriculture, industry, utilities & minerals	Construction	Trade, retail, repairment, hotel, catering	Transportation, storage, communication	Services	Social care and welfare	Total
Percentage of firms with employees through							
Open-ended contract	94.7	100	95.3	97.8	100.0	98.3	97.6
Fixed-term contract	60.4	44.5	58.3	65.3	74.4	71.8	63.0
TWA	46.1	30.8	15.1	38.7	32.8	28.0	27.7
On-call/ replacement workers	26.6	11.3	37.9	34.3	18.9	49.8	30.3
Freelancers, ZZP-ers	15.8	31.3	5.0	18.4	20.7	12.9	14.4
Homeworker	2.0	1.9	0.0	0.7	5.7	0.2	1.9
Average percentage of employees							
Open-ended contract	82.6	77.6	59.7	74.2	73.5	83.7	74.8
Fixed-term contract	8.4	8.1	15.2	10.6	16.7	8.9	12.1
TWA	7.0	8.5	15.9	5.3	5.3	1.6	7.5
On-call or replacement workers	1.3	0.8	9.0	2.4	2.4	5.4	4.5
Freelancers, ZZP-ers	0.7	4.9	0.2	1.5	1.5	0.4	1.0
Homeworker	0.1	0.1	0.0	0.5	0.5	0.0	0.1
Total number of firms	154	155	150	147	151	152	909

*Note:* the data are from a telephone questionnaire among 1050 employers, including 150 temporary work agencies, at the end of 2006.

*Source:* Knegt et al (2007: 18).

**Table 11 Firms' reasons for using flexible employment, by sector (%)**

	Agriculture, industry, utilities & minerals	Construction	Trade, retail, repairment, hotel, catering	Transportation, storage, communication	Services	Social care and welfare	Total
Changes in work amount	69.0	80.2	60.4	75.9	62.8	67.5	65.5
Illness	30.4	30.2	50.4	40.8	28.9	75.2	42.8
Longer probation	45.6	40.5	39.4	35.9	54.5	36.5	43.7
Avoid employers' risks	36.2	44.4	34.4	46.3	28.6	43.7	35.7
Easier to 'dismiss' personnel	29.7	27.6	21.2	19.4	34.9	27.0	27.0
Other	22.4	13.9	20.7	20.7	21.4	26.2	21.5
Number of firms	126	118	124	116	134	126	744

*Note:* the data are from a telephone questionnaire among 1050 employers, including 150 temporary work agencies, at the end of 2006.

*Source:* Knegt et al. (2007: 19).

**Table 12 Main reasons for using fixed-term contracts (%)**

	Probation	Internal flexibility	Temporary nature of the job	Uncertainty future	Replacement for illness/leave	Internship	Other
Total	61	10	8	7	4	2	8
Industry and agriculture	68	10	5	7	0	2	8
Construction	61	10	8	6	1	4	10
Trade, catering, reparation	64	9	14	5	3	1	5
Transport	57	20	7	8	0	2	6
Business services	68	13	2	5	3	0	10
Social care and welfare	46	10	8	16	11	1	7
Other services	47	12	11	7	2	8	13
Government	55	13	5	6	1	1	19
Education	52	3	9	5	12	3	16

The data is acquired through a telephone questionnaire among almost 2,900 firms during spring 2007.

*Source:* OSA/CPB (2009: 76).

## 5.2 Major legislative developments

Until the Flexibility and Security Act in 1999, the Netherlands had a rather liberal regulation of flexible work with few restrictions through statutory law. The main provisions included the following (Pot et al. 2001).

- No reason was required for using a fixed-term contract; however, such reasons could be specified in a collective labour agreement.
- No minimum and maximum contract term was indicated; again, this could be specified in a collective bargaining agreement.
- Conversion into an open-ended contract occurred if a fixed-term contract was continued beyond the expiry of its term but a new fixed-term contract could be offered after an interruption of one month.

This legislation contributed to the strong rise in flexible employment during the 1980s and 1990s to over 10 per cent of total employment. It raised concerns about the possible development of a dual labour market. Of particular concern was the so-called ‘revolving door’ (draaideur) construction. As mentioned, the law stated that any renewal of a fixed-term contract would automatically result in an open-ended contract. Firms therefore often dispatched and ‘reemployed’ a worker through a TWA after completion of the fixed-term contract and rehired the worker after one month, when the fixed-term contract was interpreted as the start of a new employment relationship (Tijdens et al. 2006).

These concerns inspired a response by the government and the social partners (Knegt et al. 2007). A first major outcome was a memorandum called ‘Flexibility and Security’ by the Ministry of Social Affairs and Employment in December 1995. It aimed to strike a balance between flexibility and social security, to address the strong rise in flexible employment and the limited security it offered. However, no agreement could be reached within the government and the Foundation of Labour was asked for a formal advice which was published in April 1996 as the Flexibility and Security Memorandum (Nota Flexibiliteit en Zekerheid). It stated that ‘flexibilisation’ can be considered a positive development if implemented under the right conditions, if it not only serves employers but also enables workers to find a better balance with their personal circumstances. This asks for ‘working patterns that differ from the usual full-time employment pattern but nevertheless offer a reasonable level of stability, predictability and regularity so that employees are able to organise their personal around their working life (translation from STAR 1996: 2). The agreement related this to a context in which employees have developed a new attitude to work (e.g. preference for part-time, rise in dual income families) and firms strive for a more flexible organisation. It formulated the challenge ‘not to lapse into a system of hire-and-fire but nevertheless to offer space for a modernisation of the labour relations that does justice to the aforementioned developments’ (Ibid.). The government included nearly all recommendations of this advice in its proposal for a new Flexibility and Security Act which came into force in January 1999.

The various provisions of the Flexibility and Security Act are discussed in Table 13. Some of the core provisions include the following. First of all, the number and duration of fixed-term contracts have been regulated by the so-called ‘chain’ provision, also known as the 3x3x3 rule. It states that after 3 years or 3 consecutive contracts an open-ended contract exists unless there has been an interruption of 3 months or more. Another major provision concerns the definition of a worker’s contract with a TWA as a regular employment contract. The exception concerns the first 26 weeks when the so-called ‘agency clause’ applies. During this period the end of the agency placement is the end of the employment relation. Another important aspect concerns some changes in the dismissal procedures for regular employees in accordance with the Flexibility and Security memorandum that agreed an exchange between regular and flexible employees in terms of security and flexibility. The Netherlands know a dual system of dismissal in the sense that both public and private law apply. To terminate an open-ended employment contract, employers can either apply for permission from the UWV, the organisation that administers the employee insurances, or take the case to court. Employers have criticised the former route as ‘unnecessarily restrictive, a burden on business and source of uncertainty’ (Houwing 2010: 54). The second route can be rather costly as the courts developed certain informal formulae to calculate the severance payment. These restrictions contributed to an imbalance between regular and flexible employment which the

Flexibility and Security Act attempted to address by a relaxation of the statutory dismissal protection for regular employees. The specific changes introduced are included in Table 13.

**Table 13 Important provisions of Flexibility and Security Act**

Provision	Contents
Chain-provision ('ketenbepaling): renewal contracts of limited duration (3x3x3 rule)	The firm can employ workers through the repeated use of fixed-term contracts. However, the number and period of these contracts is constrained. After 3 years or 3 consecutive contracts, an open-ended contract exists, unless there has been an interruption of 3 months or more (that is why this provision is known as the 3x3x3 rule).
Deviation by collective bargaining is allowed.	This differs from previous legislation which required that a continuation of a fixed-term contract within 31 days would subsequently require a dismissal procedure to terminate the relationship.
Agency agreement ('uitzendovereenkomst) and agency clause ('uitzendbeding')	The contract between the temporary work agency (TWA) and the agency worker is an employment contract and thus subject to all provisions of the law on employment contracts. The exception concerns the first 26 weeks when both sides can terminate the relationship without further obligations ('the agency clause').
Deviation by collective bargaining is allowed.	This differs from previous legislation which set the maximum duration for which an agency worker could be hired by an organisation at 6 months.
Minimum wage guarantee on-call workers	Workers with on-call jobs of less than 15 hours per week and with flexible working hours are entitled to at least three hours of pay for every call.
Exclusion from continued payment provision ('loondoorbetalingsplicht')	The employer can rule out the risk of continued salary payment through a provision in the formal contract but only so during the first 6 months.
Deviation by collective bargaining is allowed.	
Probation	The maximum probation period is two months. For contracts up to 2 years there is maximum probation period of 1 month. Deviation by collective bargaining is only allowed to a maximum of 2 months.
Deviation by collective bargaining is allowed.	
Refutable presumption of contract ('weerlegbare rechtsvermoedens')	The employee can under certain conditions make an appeal to a formal employment agreement that reflects his/her working conditions even when parties did not formally agree a contract or when they have agreed differently. An employment contract is assumed after one has performed paid work for 3 months and at least 20 hours monthly. Contract hours are based on the average number of hours that were worked during the 3-months period.
Cancellation and dismissal	Relaxation of statutory dismissal protection for regular employment contracts: (1) the formal dismissal procedure at the Public Employment Office (Centrum voor Werk en Inkomen, CWI; since January 2009 reorganised and renamed as UWV Werkbedrijf) is shortened (from six to four weeks); (2) the period of giving notice to employees after permission is granted is shortened to 1 month in principle and 4 months at maximum (this used to be 6); and (3) the dismissal procedure can be continued for employees on sick leave if the sick leave starts after initiation of the dismissal procedure. It has become possible to terminate fixed-term contracts early if the parties have agreed this option within the contract. However, there is an explicit prohibition against the change of open-ended into fixed-term contracts to by-pass dismissal protection.

Sources: Houwing (2010), Pot et al. (2001), Van den Toren et al. (2002), Wilthagen et al. (2005).

The Flexibility and Stability Act is complemented by the Allocation of Workers via Intermediaries Act which has been in force since July 1998. It liberalised the TWA industry by abolishing the licensing system and the ban on agency work in the construction industry. Important other provisions include the prohibition against the use of agency workers to replace workers on strike (no change from before), the stipulation that agency workers in principle should receive similar pay as workers in a similar position at the user firm, and the requirement that agencies provide sufficient information to their workers about the safety regulations in the user firm (Tijdens et al. 2006). The law quickly resulted in a sharp rise in the number of, especially small and specialised, agencies (Pot. et al. 2001). Finally, other legislation has contributed to the rise in flexible employment. The Law on Opening Hours (Winkeltijdenwet) from 1996 increased the possibilities for extended opening hours and thus the need for flexible employment. Moreover, new legislation in the 1990s increased the costs of sickness and occupational hazards for employers and contributed to the appeal of flexible employment (Tijdens et al. 2006).

### **5.3 Alternative provisions through collective labour agreements**

The Flexibility and Security Act provides substantial leeway to social partners as several provisions have ‘three quarters compulsory’ or default status and allow alternative arrangements in collective labour agreements. This possibility applies to the chain provision, the agency agreement, the probation period, the dismissal notification period, and the exclusion from the continued payment provision. A large number of agreements have indeed included alternative provisions. Van den Toren (2002) refers to research by the Labour Inspection (Arbeidsinspectie) from 2001 among 120 collective labour agreements. It showed that the most prevalent alternative provisions concerned probation (52%), the dismissal notification period (39%), and the chain provision (32%). Tijdens et al. (2006) found that 36 per cent of agreements included clauses concerning agency work by drawing on a 2004 FNV database of agreements concluded over the years 2001-2003. Table 14 presents some alternative arrangements as included in the agreements from 2006.

**Table 14 Deviation through collective labour agreements**

<b>Provision</b>	<b>Deviation through collective labour agreements and outcomes</b>
Chain-provision ('ketenbepaling')	The maximum number of temporary contracts has been adjusted in 23 of the 110 studied agreements; in about half the cases has the number been reduced, in the other cases increased or made unlimited. This is rather similar to the findings from 2001 (Van den Toren et al. 2002).
Exclusion from continued payment provision ('loondoorbetalingsplicht')	The maximum period of exclusion has been adjusted in 14 of the 110 studied agreements. It is extended in the TWA agreements, it has been abolished in the Catering agreement.
Probation	About half the agreements includes an alternative probation period for contracts up to 2 years. The number of employers that uses longer probation times than allowed is limited but has risen from 10% in 2001 to 11.4%.
Cancellation and dismissal	There has been a rise in the number of alternative provisions in agreements concerning cancellation and dismissal towards more uniform notice periods that are similar for employer and employee and usually longer (2 or 3 months) than the standard period for employees (1 month). Overall, 32% of agreements had alternative provisions for employees and 41% had alternative provisions for employers.  The option of early cancellations of fixed-term contracts is often included in contracts and also used.

*Note:* The findings are from a study by the Ministry of Social Affairs and Employment on the collective labour agreements as they were agreed in 2006.

*Source:* Knegt et al. (2007).

Of particular importance are the collective labour agreements reached within the TWA industry. The introduction of such a collective labour agreement had been part of the original Flexibility and Security Memorandum in the Foundation of Labour (Van den Toren et al. 2002). The main parties to these agreements are, on the employers' side, the ABU (Algemene Bond Uitzendondernemingen) and the NBBU (Nederlandse Bond van Bemiddelings- en Uitzendondernemingen). On the union side, it concerns the FNV Bondgenoten, the CNV Dienstenbond, De Unie en the LBV (Landelijke Belangen Vereniging). The ABU is the dominant organisation of employers in the TWA industry and the remainder of this discussion will focus on the agreements it has concluded with the unions. There have been three agreements in the years since the Flexibility and Security Act, from 1999-2003, 2004-2009 and 2009-2014. They are highly complementary to the Flexibility and Security Act because the agreements introduced the so-called 'phase system' that affects the application of the law's provisions. This, for example, holds for the provisions on dismissal, social security, pensions and training. Table 15 lists some of the main provisions in the first and third agreement (the second agreement was very similar to the third).

**Table 15 ABU collective labour agreements in the TWA Industry**

	1999-2003 agreement	2009-2014 agreement*
Phase system	<p>Phase 1: first 26 weeks of agency work.</p> <p>Phase 2: second half year of agency work.</p> <p>Phase 3: lasts 26 weeks if working through one agency ('the short route') or 24 months when working through different agencies ('the long route'). The agency has to offer fixed-term contracts of 3 months at minimum.</p> <p>Phase 4: the worker is offered an open-ended contract with the temporary work agency (TWA).</p>	<p>Phase A (former Phases 1 &amp; 2): first 78 weeks of agency work. In case of an interruption of 26 weeks or more, the 78-weeks period must be counted anew.</p> <p>Phase B (former Phase 3): if you are placed within 26 weeks after completing Phase A at the same agency. Fixed-term contract with the agency with a maximum of 8 contracts in a 2-year period. In case of an interruption between 13 and 26 weeks, the period must be counted anew. In case of an interruption of 26 weeks or more, the worker has to start Phase A anew.</p> <p>Phase C (former phase 4): if you are placed within 13 weeks after completing Phase B at the same agency. Open-ended contract with the agency after a maximum of 3.5 years of temporary agency work.</p> <p>If the user company terminates the assignment in Phase B or C, the TWA must try to find suitable replacement work (defined as no more than two levels lower than the previous position). If the previous assignment is terminated early, the worker is entitled to the same wages when doing alternative work during the remainder of the contract period. The worker receives a reversion wage in case there is no work. This is 90% of the actual wages of the most recently terminated assignment and must be at least equal to the legal minimum wage. Any new assignment must pay wages at least equal to the amount received when there is no work.</p>
Wage	In accordance with the so-called 'SMU arrangement', collective labour agreements in other industries can explicitly extend their more generous provisions to agency workers.	<p>Pay is according to ABU agreements during the first 26 weeks. Subsequently it is similar to other workers in similar position at the user firm.</p> <p>For phase C employees, the agreement distinguishes 9 position groups for determining wages. After working at the same company for 26 weeks, the agency is obliged to pay in accordance with the remuneration in the user company.</p> <p>The user firm is always free to pay the agency worker a higher wage through its own collective labour agreement.</p>
Training	A worker in Phase 2 is entitled a 'training needs assessment' but this assessment is not clearly defined. 1.02% of total wages is to be spent on training.	1.02% of total wages to be spent on training. 1% is used for an individual training account (Persoonlijk Opleidingsbudget) and becomes available to the worker from phase B. Money is made available as cash payment if not used during the tenure with the agency.
Vacation	Holiday rights are accrued for each day worked. Pay is continued during holidays for workers in Phases 3 & 4.	Holiday rights are accrued for each day worked. Pay is continued during holidays for workers in phases C & D (unchanged).
Agency clause	During Phases 1 and 2 (one year) the end of an assignment means the end to the agency work employment contract. The worker can also terminate the contract without reason.	<p>During Phase A (first 78 weeks) (a) the end of an assignment means the end to the agency work employment contract. The worker can also terminate the contract without reason; (b) fixed-term contracts which can be unlimited in number but should not exceed 78 weeks of employment.</p> <p>In Phase A, the duration of the assignment determines the notice period from zero calendar days for assignments until 12 weeks to 14 days for assignments from 52 through 78 weeks. The worker can terminate the contract within one working day. The notice period in phases B &amp; C for the TWA is 1 month and varies from 7 till 28 days for the worker.</p>
Pension	Workers of 21 years or older are entitled pension contributions from Phase 2	Workers of 21 years or older are entitled pension contributions after 26 weeks (unchanged). Different arrangements exists for phases A and B/C (more information on <a href="http://www.stippensioen.nl">www.stippensioen.nl</a> ).

\*The agreement on wages and working conditions runs from 2009-2011.

Source: ABU (2010), Houwing (2010), Tjzens et al. (2006), Wilthagen et al. (2005).

The first agreement allowed the TWA to choose between two systems. Either the agency followed the stipulations of the Flexibility and Security Act or it employed workers according

to the phase system. The latter enabled the firm to extend the period when the agency clause applies from 26 weeks to a full year. On the other hand, the rights and working conditions after 26 weeks were improved, for example in terms of pension rights. The subsequent two agreements are very much in line with the first. However, they include important changes to this phase system. First of all, the number of phases was reduced to three by combining the first two phases. In addition, the maximum period for this initial phase was extended to 78 weeks. Overall, the maximum period before an open-ended contract was extended from three to 3.5 years. The new agreements have also provided further clarification about the application of respectively the TWA agreement and the collective labour agreement of the user firm (for example concerning wages).

#### 5.4 Current characteristics of flexible employment

This section discusses the character of flexible work. It starts out by presenting the reasons for taking flexible employment and some important characteristics of agency workers. It subsequently discusses the issues of training and the contentment of flexible workers about their employment. The section ends by discussing the possibilities to progress to open-ended contracts.

The first table shows the reasons workers provide for performing the different types of flexible employment. Knegt et al. (2007: 30) point out that these reasons are rather similar to those listed five years earlier by Van den Toren et al. (2002).

**Table 16 Reasons for performing flexible work (%)**

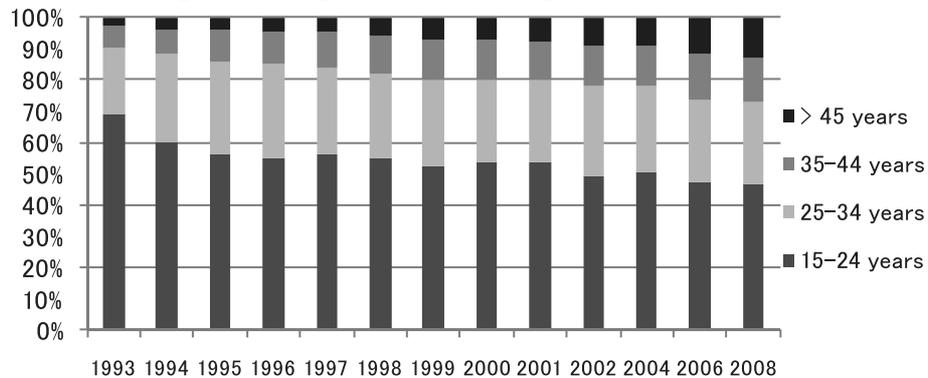
	TWA contract	On-call contract	Fixed-term contract	Total
Freedom	16.9	23.5	4.9	12.9
Not (yet) found a permanent job	28.2	9.2	32.9	24.9
Combine work and care responsibilities	9.9	9.2	9.1	9.3
Only limited time for work	14.1	14.3	4.9	9.6
Gain experience	7.0	4.1	6.1	5.7
Temporarily earn additional money	14.1	23.5	3.0	11.4
Other reason	9.9	15.3	36.0	24.3
Unknown	0.0	1.0	3.0	1.8
Total number of respondents	150	152	151	453

*Note:* The data are from an internet questionnaire among 450 flexible employees in 2006.

*Source:* Knegt et al. (2007: 30).

The next three figures illustrate important developments among agency workers. Figure 11 and 12 show that the shares of older agency workers and the share of breadwinners among agency workers have increased. Figure 13 lists the growing share of vulnerable groups among agency workers. These vulnerable groups are defined as people over 45 years, ethnic minorities, the long-term unemployed and those partially (disabled) to work.

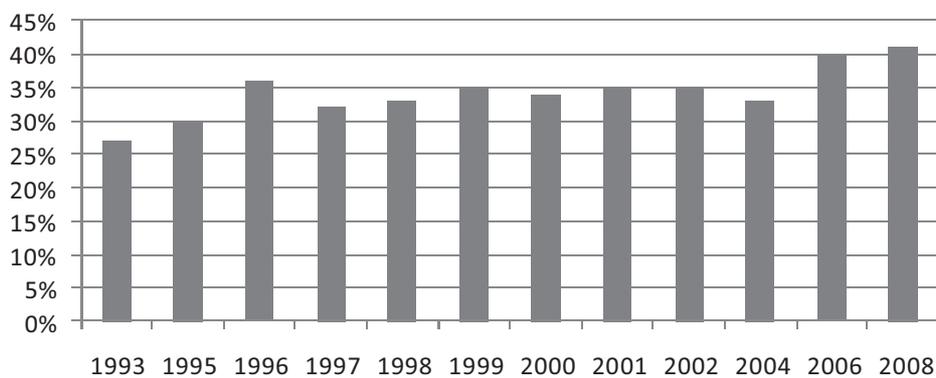
**Figure 11 Age structure of agency workers (%)**



*Note:* The research is performed by Ecorys, a European research and consultancy company, on behalf of the ABU. It involves questionnaires among agency workers by phone and e-mail. The responses for 2008 were respectively 1,018 and 7,106. This also holds for the subsequent data by the ABU.

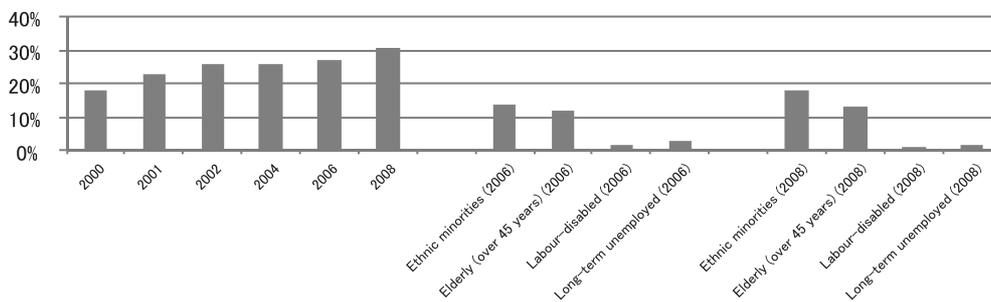
*Source:* ABU (2009: 12).

**Figure 12 Share of breadwinners among agency workers (%)**



*Source:* ABU (2009: 15).

**Figure 13 Share of vulnerable groups among agency workers (%)**



*Note:* Vulnerable groups are defined as people over 45 years, ethnic minorities, the long-term unemployed and the (partially) disabled to work.

*Source:* ABU (2009: 19).

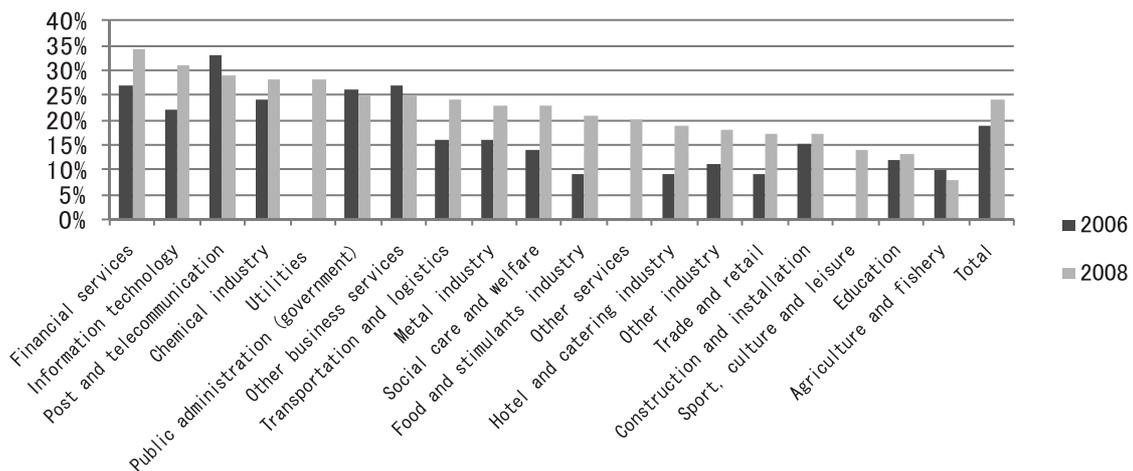
An interesting issue is the allocation of agency workers over the different phases as the latter phases provide substantially better working conditions, including an open-ended contract in Phase C. Table 17 shows that only 7 per cent of agency workers are employed as Phase B or Phase C workers. These percentages are similar to those found during the earlier study by Van den Toren et al. (2002). Training is an issue that has received greater attention in recent agreements, in particular through the training levy of 1.02 per cent. Figure 14 shows the share of agency workers that have received training.

**Table 17 Share of agency workers at respective phases (%)**

Characteristics agency worker	Phase A	Phase B/C
15-24 years	97	3
25-34 years	90	10
35-44 years	91	9
45 years and older	87	13
No Ethnic minority	93	7
Ethnic minority	92	8
Low educational background	93	7
Medium educational background	94	6
Higher educational background	91	9
Total	93	7

Source: ABU (2009: 20).

**Figure 14 Share of agency workers who have taken a work-related training course (%)**

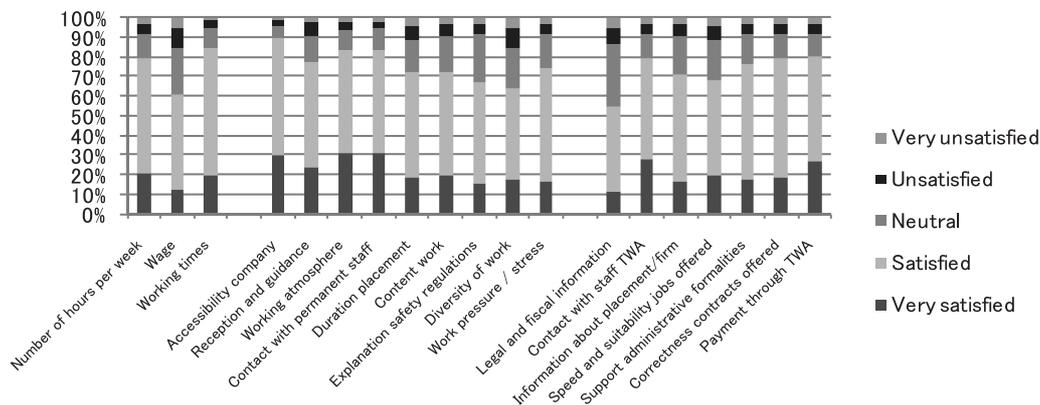


Source: ABU (2009: 39).

Two final issues to consider are the satisfaction of agency worker about their working circumstances and their chances to acquire an open-ended contract. Figure 15 shows the satisfaction among agency workers about working conditions, the user firm, and the TWA.

Table 18 compares existing jobs to those preferred in 2002 and shows that most flexible workers preferred an open-ended contract. It is only on-call/home workers and, to a lesser extent, agency workers who were reasonably satisfied with their position. The remaining figures and table show the chances of flexible employees to achieve an open-ended contract. Figures 16 and 17 show the chances of agency workers as assessed by respectively the ABU and the UWV. Table 19 specifies the overall percentages for the different groups among agency workers. Figure 18 shows the chances of those with a fixed-term contract as assessed by the UWV.

**Figure 15 Satisfaction of agency workers about working conditions, the user firm and the agency (%)**



Source: ABU (2009: 31-2).

**Table 18 Desired employment relationship according to current job characteristics (2002)**

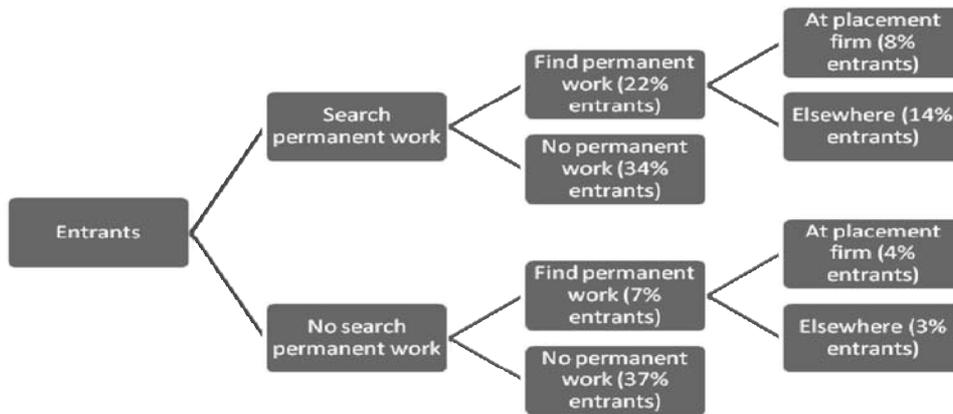
	Desired employment contract					Total
	Open-ended*	Fixed-term contract	TWA	On-call work	Other	
Flexible characteristics	61.9	4.4	13.5	16.5	3.8	100
TWA	55.6	2.9	35.4	1.3	4.8	100
Detached, loaned	89.6	2.0	4.5	60.8	3.9	100
On-call / home workers	25.8	9.9	1.2	0.3	2.4	100
No flexible characteristics	96.4	0.9	0.2		2.3	100
All	93.4	1.2	1.3	1.8	2.4	100

\*Including fixed-term with future possibility of an open-ended contract.

Note: This research has been repeated since (every two years) but the later studies did not include this data.

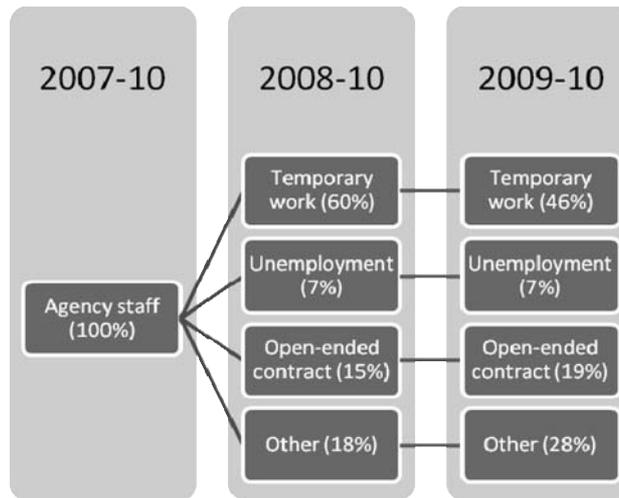
Source: OSA/CPB (2004: 90).

**Figure 16 Searching and finding permanent work by agency workers (%)**



Source: ABU (2009: 35).

**Figure 17 Perspective of agency workers**

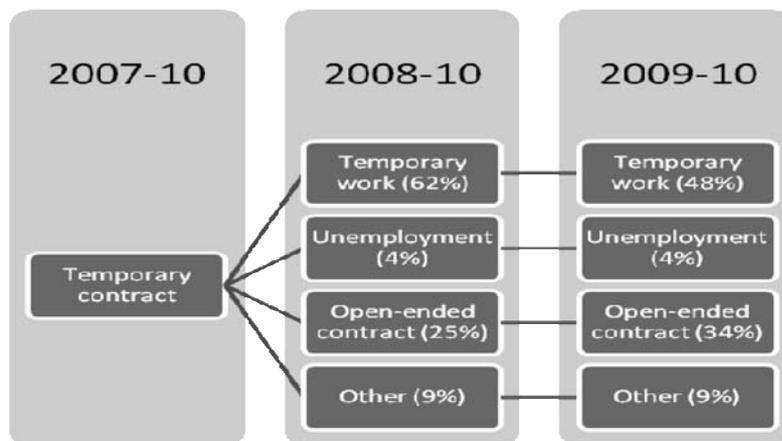


Source: UWV (2010: 35).

**Table 19 Vulnerable groups among agency workers and permanent employment**

Specific groups	Search permanent work	Find permanent work	At user firm
Vulnerable groups	57	21	10
Ethnic minority	56	19	9
Disability benefits	70	23	10
1 year unemployed or more	71	18	10
Over 45 years	59	24	12
Non-vulnerable workers	56	32	12
<b>Total</b>	<b>56</b>	<b>29</b>	<b>11</b>

Source: ABU (2009: 37).

**Figure 18 Perspective of employees with a temporary contract, excl. agency staff**

Source: UWV (2010: 35).

### 5.5 Illegal practices in the temporary work agency (TWA) industry

A particular problem in the TWA industry is the prevalence of illegal practices. Tijdens et al. (2006) refer to a 2004 research report which concluded that one out of every seven workers was placed by an illegal agency.

750 registered (!) temporary agency companies were suggested to engage in illegal activities. It was estimated that these registered companies are mediating 7,500 - 15,000 illegal workers. In addition, a considerable group of non-registered small firms was traced, leasing another 40,000 - 65,000 illegal temporary workers per year.

Tijdens et al. (2006: 19-20)

Illegal agency work can concern both workers, because they are illegal or because they are legal but not allowed to work, and agencies, because they do not pay the required taxes and social insurance premiums. The ABU has been particularly active in this area by protecting quality standards. Agencies require a license and financial review from the ABU and in 2007 it created the so-called NEN 4400-1 norm, a private initiative which offered certification to law-abiding agencies by the 'Stichting Normering Arbeid' ([www.normeringarbeid.nl](http://www.normeringarbeid.nl)). Another development has been legislation on 'user responsibility' (inlenersaansprakelijkheid) since January 2010. Agency workers who receive less than the legal minimum wage and additional holiday premium can now hold the user firm responsible. This is an attempt to better uphold the minimum wage and to fight fraudulent agencies. The user responsibility does not apply if a firm uses a certified agency (MSZW 2010). The interview with a representative of the ABU confirmed the challenges involved and the importance the organisation ascribes to preventing illegal behaviour.

### 5.6 Official evaluations of new legislation and its outcomes

Several official evaluations, the first as early as February/March 1999, have assessed the impact of the Flexibility and Security Act together with the WAADI and the collective labour agreements. The two most comprehensive studies were performed in 2001 (Van den Toren et al. 2002) and 2006 (Knegt et al. 2007). The latter was considered necessary as the first

evaluation took place during an economic boom period and it was felt that the Act was not yet critically tested.

Several expectations were expressed when the legislative framework was introduced. For example, it was expected that fixed-term contracts would become more attractive because of the greater room for contract renewal. In addition, the conclusion of open-ended contracts should become easier because of the simplification of dismissal procedures. The three-hour minimum payment would motivate greater care and better planning when hiring on-call workers. No changes were expected in the intermediary role of TWAs but the law should improve the security of agency workers. At the same time, this greater security could constitute a threat to the growth of agency work, in particular given the wider possibilities to use fixed-term contracts (Pot et al. 2001). These expectations have come true to a large extent. The actual evaluations are rather detailed and hard to do justice within the context of this report but Table 20 provides an overview of several important findings.

Several aspects deserve special mention. First of all, flexible workers have not been overly positive about the supposedly greater security. As pointed out by Van den Toren et al. (2002) this is somewhat understandable if we take into account that the new balance between security and flexibility does not necessarily affect the individual flexible worker or specific employment types. The increased security is not just realised within but also between the different types of flexible employment. Van den Toren et al. (2002) provide the example that the security of workers has been strengthened by the rise in fixed-term and open-ended contracts at the expense of the less secure on-call contracts. A second issue is the transfer from flexible to open-ended contracts. The evaluations consider this disappointing. Van den Toren et al. (2002: 59) conclude that the transfer to permanent employment has become less achievable than originally hoped for. Both major evaluations ascribe this to the discretionary freedom of employment agencies and the organisations using flexible workers. They are free to just use fixed-term contracts and Phase-A agency workers and cannot be forced to promote workers to open-ended contracts or later phases. Neither the Flexibility and Security Act nor the collective labour agreements in the TWA industry provide any monitoring instruments that increase the likelihood of conversion (Knegt et al. 2007). The low number of agency workers in Phases B and C are particularly indicative of this situation.

A final issue to be considered is the development of other types of flexible employment. As pointed out by Knegt et al. (2008), they cannot be ascribed directly to the Flexibility and Security Act but have clearly been shaped by the existing framework. Section two already introduced the so-called ‘independents without personnel’ (‘Zelfstandigen Zonder Personeel, ZZP-ers), one-person ‘businesses’ that are often in a similar position as employees and provide an important contribution in terms of flexibility. Another development is the rise in ‘payrolling’. It involves the provision of employees to principals whereby the principal is responsible for the recruitment, selection and treatment of employees. It is rather similar to agency work with the important distinction that the agency does not perform its customary allocative function but usually takes over personnel from a principal. In other words, the legal employer changes with important consequences for the working conditions. In particular dismissal tends to become easier as the payroll firm can refer to a loss of contract with the user firm as the basis for dismissal. Payrolling has grown and continues to grow in importance, with about 70,000 pay-roll workers in 2007, 144,000 in 2009 and an expectation of almost 180,000 employees in 2012 (EIM 2010). The industry has its own employers’ organisation (Vereniging Payroll Ondernemingen, VPO) and collective labour agreement.

**Table 20 Major evaluations of Flexibility and Security Act*****Van den Toren et al. (2002) 'Effects and Effectiveness of the Flexibility and Security Act'***

- On balance, there has been no increase in the share of flexible employment.
- The refutable presumption of contracts has had a largely preventive impact through the development of alternative and better drafted contracts.
- The fixed-term contract has clearly become more popular in relation to on-call and agency contracts. Firms renew fixed-term contracts much more than originally expected by the legislator. In one-fifth of cases employees have been offered an open-ended contract at the end of the 'chain' of fixed-term contracts. In 10% of the relevant cases do firms wait for three months at the end of the 'chain'.
- Only 18% of workers to whom the minimum wage guarantee applies claim that they receive the minimum of three hours pay per call.
- The number of transfers from Phase 3 to 4 is three times as high as the number of cases where the relationship is terminated at the end of Phase 3. One would expect that in time the number of agency workers with a permanent contract increases. The data in 2002 did not show such an increase.
- The increased flexibility of regular employees mostly concerns more flexible working times. The ambition to promote open-ended contracts through the simplification of dismissal procedures has hardly been realised as the changes have not motivated the majority of employers (over 80%) to change their dismissal strategies or to hire more personnel. One-third of employers have included the possibility of early termination in fixed-term contracts.
- Flexible workers are not very positive about the increased security. In particular, the transition to an open-ended contract is not as easy as possibly thought when the act was introduced.
- Most TWAs and other organisations for placement agree that the position of vulnerable groups has hardly improved.
- To the extent that the law has not lived up to the expectations, it is because of the discretionary freedom of employers and problems of compliance.

***Knegt et al. (2007) 'Second Evaluation Flexibility and Security Act'***

- The refutable presumption of contracts has indeed had a largely preventive impact.
- The number of times that someone on a fixed-term contract is offered another fixed-term contract is rather high (58%). The number of times an open-ended contract is offered has diminished (to 14%).
- Only a quarter of on-call workers to whom the minimum wage guarantee applies claim that they indeed receive the minimum of three hours pay per call.
- The attitude of TWAs concerning the education of agency workers has become more positive and the size of educational efforts, although still somewhat smaller than in 2001, is considerable.
- Two-thirds of the regular employers believe that the law has not contributed to administrative costs. This differs among TWAs where over two-thirds believe their administrative costs have increased.
- The following developments have improved the flexibility of firms: (1) wider possibilities to use fixed-term contracts (which has translated into greater use); (2) the possibility to end fixed-term contracts early; (3) the extension of the period during which can be worked according to the agency clause; (4) the simplification and shortening of dismissal notification have reduced the costs of dismissal for employers; (5) the changes in the dismissal procedures for regular employees have made this more accessible.
- The following developments, amongst others, have influenced the security of employees: (1) the refutable presumption of contract has made employers careful when contracting employees but employees have hardly made use of this provision, largely because they often are not interested in increasing the size of their job; (2) more than five years ago, a fixed-term contract is followed by another contract. However, this is often another fixed-term contract; (3) the security of agency workers has increased although some of the improvements of five years ago have been undone.

## 6. Ongoing Concerns

This section discusses some of the ongoing issues as they were discussed during the interviews with union representatives. They expressed serious concerns about the rise and consequences of flexible employment, concerns that may require a reconsideration of the predominantly positive evaluation of the Dutch labour market policies in recent years. As this report does not allow for a detailed discussion, the section merely introduces some of the more pressing concerns.

A first major development is the rise in flexible employment. The data by Statistics Netherlands have long suggested that the share of flexible to total employment was rather stable. The recent data by the UWV, presenting a flexible group constituting 34 per cent of total employment, have therefore had quite an impact (see Figures 6 and 7 and Table 1). It has raised concerns about flexible employment becoming a new norm for substantial groups of employees. The working conditions of regular employees with open-ended contracts may remain good at many firms but the size of this group continues to diminish. A particular issue concerns a group of agency workers who find it almost impossible to progress from Phase A. The ABU and unions have recently instigated a cooperative study about its size as the unions claim the group to be much bigger than the employers believe.

The reasons for hiring flexible employment are not limited to flexibility. An important reason seems the ease that flexible employment offers because it requires less personnel management on issues like planning and training. This appears to have resulted in much greater use of flexible employment than necessary to handle business fluctuations. In addition, cost considerations appear relevant as well. Agency workers offer certain advantages in terms of costs, partly as they are paid according to the collective labour agreement for the TWA industry during the first 26 weeks. Moreover, pension costs tend to be lower for agency workers. Finally, there is hardly any increase in wages because of seniority considerations if new agency workers are hired every so often.

These developments have raised serious concerns among the unions. In the case of agency work, the original union argument for acceptance was threefold: (1) to replace sick employees and handle occasional high demand, (2) to offer an important entry into the labour market and open-ended contracts, and (3) to enable employees to achieve an open-ended contract at the TWA. The first argument still holds. The transfer to open-ended contracts also takes place although not as much as hoped for. However, the transfer towards Phase C has been very disappointing. As a consequence, agency workers may find that they cannot continue beyond Phase B and have to find alternative employment. One union representative mentioned how certain agency workers in a works council had even suggested that the C-Phase could be better abolished as it would allow the continuation of work through the fixed-term contracts of Phase B.

Another major issue is the collective labour agreement for the TWA industry. The union representatives are well aware that their willingness to sign these agreements has contributed to the legitimacy of the industry. Something similar holds for the payrolling agreement. At the same time, the unions expressed serious concerns about these agreements. They are critical about the outcomes as it has created a group of employees with significantly worse working conditions. The lack of members among agency workers also weakens the unions' position. In accordance, there is little that can be achieved through collective bargaining. This relates to the difficulties to organise agency workers as it requires knowledge about and entry into the companies where they work. In response to these complexities, the unions are in the process

of considering an alternative approach directed at the user firms. This strategy, which is only from the last 1 to 2 years, involves calling on the user firms to point out their responsibility for the working conditions of flexible workers. It also means the inclusion of provisions for flexible workers within the collective labour agreements for these firms. This strategy faces some important challenges. First of all, it provides no direct line between unions and TWAs, and thus with the actual employers of agency workers. In addition, it requires other unions to represent flexible workers in addition to their 'regular' members and thus the ability to convince members about the need for this change in policy. However, the representatives believe that the time may be right. Regular employees see flexible workers more and more as colleagues, they recognise the pressure on their own working conditions, and are aware that they may be forced to accept flexible employment if they would lose their current job. At the same time, the danger is real that better working conditions for flexible workers are exchanged for other demands that are closer to the interests of regular employees during the process of collective bargaining.

## 7. Reflections

As mentioned in the introduction, the growth of non-regular employment in the Netherlands has been an important aspect of its relatively strong economic performance since the 1990s. It has contributed to the rise of the 'poldermodel' and provided a major inspiration for discussions on Flexicurity. The regularisation of part-time employment has contributed to its quality and availability across sectors and functions. In addition, a new and innovative framework was developed to regulate flexible employment. Previous discussions and evaluations of these developments have thus been rather positive. However, some serious concerns have developed in recent years. In the case of part-time employment, this particularly concerns the number of female employees who work a small number of hours. This hardly contributes to their economic independence, nor does it help in handling the ageing of society. In addition, part-time employment may be easier to achieve than in other countries but is not less harmful to career progression. More pressing are the developments in flexible employment. Both its rise and the limited progression it offers towards open-ended contracts have become grounds for concern.

In this context, it is insightful to look at the objectives as they were originally formulated in the Flexibility and Security Memorandum. As mentioned before, it aimed to strike a balance between the issues of flexibility and social security, to develop 'working patterns that differ from the usual full-time employment pattern but nevertheless offer a reasonable level of stability, predictability and regularity' and 'not to lapse into a system of hire-and-fire'. It can be questioned whether these objectives have been achieved. The developments of recent years seem to illustrate the almost complete dominance of economic considerations. This shows clearest in the failure of the Phase system to offer progression to the open-ended contracts of the C Phase. Moreover, it is also shows in the extensive use of short-term contracts, often without much chance that they become open-ended. The original agreements aimed to support such progression but actual results have been disappointing. Payrolling in many ways take the next step in flexibilisation as it changes the legal employer solely for flexibility considerations. It raises serious concerns whether the developments in recent years are still in line with the intentions of the Flexibility and Security Act. As mentioned by one of the interviewees, if the negotiators to the memorandum had known that the future would bring payrolling, they would probably not have signed.

We need to conclude that the attempt to re-address the balance in terms of flexibility and security between regular and flexible employment has not been sufficient. It has been expressed by earlier evaluations that employers were not overly convinced about the relaxation of the dismissal procedures for regular employees (e.g. Van den Toren 2002). The rise in flexible employment seems to underline this assessment. It suggests that the social partners need to re-address the balance on the side of either regular or flexible employment. Given the strong rise of flexible employment beyond flexibility considerations, it appears wise to start there.

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