

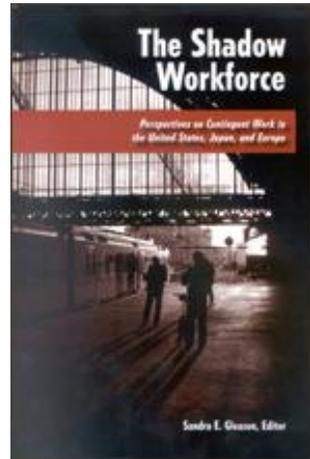
---

Upjohn Institute Press

---

## Where Do We Go from Here?

Sandra E. Gleason  
*Pennsylvania State University*



Chapter 10 (pp. 307-328) in:

**The Shadow Workforce: Perspectives on Contingent Work in the United States, Japan, and Europe**

Sandra E. Gleason, ed.

Kalamazoo, MI: W.E. Upjohn Institute for Employment Research, 2006

DOI: 10.17848/9781429454889.ch10

# 10

## Where Do We Go from Here?

Sandra E. Gleason  
*Pennsylvania State University*

The nonstandard workforce has grown in the mature industrialized nations of the United States, Japan, and Europe. On the demand side of the labor market this growth has been a response to a common set of forces for change. These forces include the globalization of economies, deregulation of labor markets, rapid advances in technology that have created the information age, and other factors that require employers to adjust more agilely to continuous change. On the supply side of the labor market the growth has reflected the desire of many workers for more flexible employment options to accommodate life stage and lifestyle preferences. Due to these demand and supply forces, nonstandard employment is expected to continue to grow in the future.

The structural changes that mature industrialized nations are undergoing and the resulting (sometimes negative) impact on the nonstandard labor force highlighted the inadequacies of the present labor market infrastructures. For example, in the United States, policies, laws, and institutions developed in the New Deal in the 1930s structure the current employment relationship. However, the research presented in this volume shows that this system no longer meets the needs of many workers, employers, or the U.S. economy, because the premises on which the New Deal system was based have changed. Specifically, workers, who primarily were male, were expected to have a long-term, full-time employment relationship with only one employer during their careers. The system required reciprocity: employers provided employees with job security; in return, employees were a loyal and committed workforce for the employer. This set of bilateral expectations—often referred to as a “psychological contract”—defined the operational concept of a “good job” (Stone 2004). In contrast, the workforce of today—particularly the more educated workers in their twenties and thirties—expects to have

multiple employers during a career, is more diverse, desires greater flexibility, and has less concern for security (Kochan 1998). This expectation of a “boundaryless career” is part of the new psychological contract of the future (Stone 2004).

Some authors have noted that the current definition of a “good job” is actually relatively new because it was developed in the twentieth century. The growth of contingent and short-term employment contracts thus represents a return to the historical past when contingent employment was the norm for most workers. Nevertheless, despite the recency of our definition of “good jobs,” this is the definition used to frame much of the research on employment, and continues to provide the benchmark against which alternative employment arrangements are compared (Kelloway, Gallagher, and Barling 2004).

The attention focused on nonstandard employment over the past several decades has changed the way we think about jobs, even though nonstandard employment has not—and will not—become the dominant model of employment in the countries discussed in this book. What has changed is the *perception* that a career-long tenure with one employer will no longer be the norm in the future. There is now an awareness that employees will bear more risks in the labor market than in the past as they move between different types of working-time employment arrangements, such as from full-time to part-time status.<sup>1</sup> The risks include job loss and fluctuations in pay. However, “these are changes of degree, not of kind. They . . . constitute . . . a reallocation within a stable institutional structure dominated by standard employment arrangements” (Jacoby 1999).

Kochan (1998) argues that the situation in the United States today is analogous to the period from the turn of the century to the 1930s prior to the New Deal. It took about 30 years to develop the intellectual foundations of the New Deal. Similarly, researchers have been studying for about 30 years the changes in nonstandard employment and the myriad forces determining them. However, they still are grappling with the realization that the fundamental premises on which the current employment relations system was built no longer apply to many workers, and trying to determine what this implies for the future. Consequently, we have not yet developed the intellectual foundation that will define the characteristics of a new system and a new social contract. Japan and the countries of the European Union (EU) also are facing a similar

challenge (see Jouen and Caremier 2000). The labor market institutions that worked well after World War II no longer fit the needs of their national economies. Kochan concludes that for the future “Identifying the specific features of these institutions and policies remains the key intellectual challenge and responsibility of this, and, perhaps, if history is any guide, the next generation of researchers and professionals” (Kochan 1998, p. 245).

## **THE CHALLENGES FOR FUTURE RESEARCH**

The challenges in the development of appropriate labor market policies for a new social contract are to clearly identify the problems that need to be addressed, measure empirically their dimensions, determine which problems are the most important and therefore worthy of policy attention, and then select the “best” policy options in light of identified trade-offs. High-quality research is fundamental to this process. It must be based on a balanced analysis of the issues, rather than perspectives expressed in the media, which tend to be skewed to either promanagement or prolabor viewpoints.

When thinking about the identification and measurement of labor market problems, it is important to consider the challenges created by the heterogeneity of nonstandard workers and ongoing evolution of the theoretical models used to analyze the demand and supply forces. The heterogeneity of this segment of the workforce requires researchers to use data that permit the analysis of the subgroups of contingent workers that are negatively affected by their employment arrangements. For example, a variety of U.S. government databases are available for this purpose, but must be combined and better organized to facilitate research (U.S. Department of Labor 1994). However, it is not always possible to find data that define precisely the groups of workers of interest, so the severity of the negative effects of contingent employment may be overstated or understated (Lester 1998).

Furthermore, the theoretical models on which empirical analysis can be based are continuing to evolve. For example, there is no general agreement on the correct theoretical model to use to frame the analysis of the labor market effects on those workers disadvantaged by contin-

gent employment. Lester (1998) argues that we need an improved understanding of the “root harm” experienced by disadvantaged groups, which considers both workers’ abilities and preferences. This harm fundamentally is underemployment resulting from a mismatch between the jobs held by workers and their skills, interests, and human capital. While the New Keynesian models of involuntary unemployment seem to offer the best analytical approach for the analysis of “root harm,” they have not been tested empirically. Thus, their ability to provide insights into appropriate legal reforms is unknown (Lester 1998).

Similarly, as Michon notes in Chapter 9, cross-national research is complicated by the lack of data to compare groups of workers defined in the same way across nations and an absence of well-developed theoretical models. The reasons for variations and the extent of the diversity observed across nations in the use of different nonstandard employment arrangements have received little attention; this has hindered our understanding of how the established institutions and cultural contexts explain particular national adaptations and the variations in the rate of adaptation. However, since the 1990s the “new institutionalism” has been developing; this approach seeks to explain how rules embodied in various institutions shape economic, social, and political activities (Godard 2004, pp. 232–235). This approach requires the researcher to understand national institutions and values as a precursor to explaining national changes in response to global forces (Godard 2004, p. 246; Martin and Bamber 2004, p. 293).

## CONCEPTUALIZING POLICY EFFECTS

The infrastructures of the United States, Japan, and the European Union were designed to meet the needs of an earlier era. The growth of the global economy has restructured many sectors of these economies. What is needed now are new ways to improve labor market flexibility through policy changes to, or redesign of, the infrastructure of tax, labor, and employment laws and institutions.

Two major policy approaches have been identified to provide coverage for a greater number of employees by extending coverage to contingent workers: 1) to revise the laws to expand the eligibility standards

determining coverage, and 2) to eliminate the gray areas of legal interpretations. Table 10.1 is used to illustrate how the two approaches would affect selected employment laws in the United States.

Table 10.1 (which is based on the discussion in Chapters 5 and 6) presents the employer's perspective on the coverage of workers under five categories of employment laws for six types of employment arrangements. At one extreme are the full-time, permanent core employees in "good jobs," while at the other end of the spectrum are independent contractors. The legal standing of these two groups of workers generally is clearly defined. However, these usually are not the workers of concern to those advocating improvements in public policies affecting nonstandard employment. The workers of concern are those in the middle—the part-time, temporary, and leased employees, differentiated by the firm that hires them. In Table 10.1, "Yes" indicates coverage

**Table 10.1 Employer Perspective: Coverage by Selected Employment Laws of Employment Relationships in the United States**

Employment relationship	FICA & FUTA <sup>a</sup>	Qualified retirement plan	FLSA (minimum wage)	Workers' compensation	EEO laws
Full-time, permanent, core worker	Yes	Yes	Yes	Yes	Yes
Part-time worker hired by employer	Uncertain <sup>b</sup>	No <sup>c</sup>	Yes	Yes	Yes
Temporary worker hired by employer	Uncertain <sup>b</sup>	Uncertain <sup>c</sup>	Yes	Yes	Yes
Temporary worker provided by agency	Uncertain	Uncertain	Yes <sup>d</sup>	Uncertain	Uncertain
Leased worker provided by agency	Uncertain	Uncertain	Yes <sup>d</sup>	Uncertain	Uncertain
Independent contractor	No	No	No	No	No

<sup>a</sup>These federal statutes provide unemployment insurance, Social Security, and Medicare coverage.

<sup>b</sup>Workers will qualify for coverage only if the eligibility criteria are satisfied (see Chapter 5).

<sup>c</sup>An employee must work at least 1,000 hours, the equivalent of one year of service in a 12-month period, to qualify.

<sup>d</sup>The contentious issue is not the payment of the minimum wage, but rather the requirement that an employee must be paid overtime pay at time and one-half after 40 hours of work. However, independent contractors are exempt from this requirement.

by the employment laws of workers for each type of employment arrangement; “No” indicates noncoverage; and “Uncertain” indicates that coverage is uncertain and varies with the eligibility requirements, legal interpretations, and compliance. The heterogeneity of treatment resulting from varying legal definitions and interpretations used to determine when a worker is an “employee” has created what Befort (2003) describes as “a veritable regulation-free zone in portions of the contingent work landscape,” a “Black Hole of Workplace Regulation.”

The first policy approach is to revise the laws to expand the work-based eligibility requirements for employment-based benefits to expand eligibility, thereby covering more nonstandard workers. For example, prorated benefits could be provided for pension coverage for workers who work less than the current requirement of one year of service in a 12-month period. A variation is to include under the coverage of the statutes any industries or firms that are currently exempted from the legislation to expand the number of workers covered. This approach requires changing each law in Table 10.1, thereby affecting the workers by column.

The second policy approach is to eliminate the gray areas of legal interpretations that exclude some workers from employment protections, thereby expanding coverage to more employees. This approach can be partially successful without changing the content of the laws per se by using a two-pronged approach: clarifying terminology and improving compliance within the existing laws. The Dunlop Commission addressed the issues of confusing terminology resulting from multiple definitions of “employee” by recommending the adoption of one definition of “employer” and one definition of “employee” for all workplace laws “based on the economic realities of the employment relationship” (U.S. Department of Labor 1994). If this recommendation was followed, such as through the development of model laws and practices based on the consistent use of definitions, the laws would have to be revised. In terms of Table 10.1, most if not all of the uncertain outcomes would be eliminated if consistent definitions were used for all laws. Improved compliance would affect both the columns and the rows.

Improvements in compliance within existing laws can be achieved through several tactics. It will be helpful to employers to have clearer guidance about their legal responsibilities, such as more user-friendly guidelines for following the laws. Employer compliance is mandated

when low-wage workers are unionized because union contracts clearly define these workers as “employees.” In addition, some nonprofit organizations, such as the Center for a Changing Workforce (CFCW) and the National Employment Law Project (NLEP), work to enforce compliance by ensuring that employees are correctly classified by employers.

The CFCW focuses on “permatemps”<sup>2</sup> and provides “advice and consultations for individuals and organizations on employment issues, litigation, and public policy” while also analyzing policy and legislation related to permatemps and tracking litigation. An illustrative project is its investigation in response to a request from AFSCME Council 28 to determine whether the University of Washington Medical Center was misclassifying employees. The 2002 report presented to AFSCME stated that “there has been widespread misuse of hourly ‘temporary’ employees at UWMC” (Center for a Changing Workforce 2002; Hanbey 2003). Similarly, the NLEP Nonstandard Worker Project “seeks to ensure that all workers regardless of what their employer calls them—temp, independent contractor, part-timer—receive the full benefits of labor and employment laws” (National Employment Law Project).

A two-dimensional table similar to Table 10.1 also can be developed for Japan and the countries of Europe to help researchers understand the potential impact of various policy changes. However, in the case of Europe, the analysis is compounded by the presence of EU regulations. This will require a three-dimensional diagram to more fully illustrate the potential of cross-national EU policy effects.

Well-designed research can help predict and evaluate the effects of policy changes. This information then can be used to design the appropriate changes in policy based on the identified trade-offs and evaluation of economic efficiency, equity, security, and liberty of the policy (see Chapter 6 for a review of these concepts). This process of evaluations reminds us that we have choices in shaping how the forces for change in the global economy are managed. There are no “. . . overwhelming and uncontrollable market forces [that] have made the trend toward contingency as we know it inevitable” (Gonos 1997, p. 104). Furthermore, pursuing the policy changes guided by research will “open up employment policy and practice to a period of experimentation and opportunities for further learning” (U.S. Department of Labor 1994, p. 13).

## **DIRECTIONS FOR FUTURE RESEARCH**

Throughout this book a number of topics for future research related to the intellectual challenge posed by Kochan (1998) have been discussed. These are reviewed from four perspectives. First, research can explain more fully how employers make strategic decisions regarding the best mix of permanent and nonstandard employees, as well as the best mixes of alternative employment arrangements. To guide policy choices, we need a better understanding of decision making under varying circumstances and the impact of these choices on management practices. Also, research can guide the expansion of the coverage of employment and benefits protections for contingent workers. In addition, more comparative research on the impact of variations in regulation will help to guide policy development as nations learn from each other. Finally, research can help us evaluate the effectiveness of strategies used by unions and nonprofit organizations to improve the conditions of work and economic welfare of contingent workers.

### **Employers' Strategic Decision Making and Management Practices**

The limited empirical evidence has identified demand-side factors as dominant when explaining the growth of nonstandard employment (Kahn 2000). Progress has been made in our understanding of the complexity of employers' strategies to mix permanent workers and varieties of nonstandard employees. However, future research focused on employers' decision making can further clarify three issues. First, we need a better understanding of the factors influencing strategic decisions that result in the hiring of nonstandard workers. Second, we need better information about the conditions under which employers choose to implement standards that treat contingent employees more equitably. Finally, we need to know whether different management strategies are required for a workforce that blends permanent and contingent workers.

Research can help determine the most important factors driving the demand for nonstandard employment arrangements, and the management strategies that are the most effective in differing circumstances. As an illustration, the cost-minimizing strategy of hiring temporary workers to cover short-run needs such as the replacement of absent

full-time workers is different from the strategy that focuses on long-run productivity enhancement through labor input flexibility. The latter strategy may require investing in permanent employees who are trained to be flexible in adapting to changing work assignments instead of using contingent workers. Also, we need to understand better how these strategies mesh with hiring nonstandard workers in response to business cycle changes and structural changes in the economy. For example, improved understanding of these aspects of employer decision making will help us analyze the forces affecting U.S. firms hiring part-time and temporary employees, as well as worker dispatching by temporary employment agencies and the use of part-time workers in Japan and the growth of temporary employment agencies in Europe.

Also, although standards for the equitable treatment of contingent workers are available, we have little understanding of why and when employers implement these models when the choice is voluntary. For example, the International Labor Organization (ILO) published recommendations for the equal treatment of part-time workers relative to full-time workers. The ILO recommends that part-time workers should be paid a comparable wage and have the same statutory coverage of Social Security programs on a pro-rated basis. Also, these workers should have the right to organize and bargain collectively, be protected by occupational safety and health laws and against employment discrimination, and be entitled to equivalent protections for maternity and sick leave, job termination, paid annual leave and public holidays, and transferring between part-time and full-time employment (for further discussion see Zeytinoğlu [1999]). Similarly, in 2002 the American Federation of Teachers (AFT) published “Standards of Good Practice in the Employment of Part-Time/Adjunct Faculty” (2002), which outlines appropriate standards of treatment. These standards include equitable pay and a seniority system, as well as standards to ensure adjuncts are treated with professional courtesies.<sup>3</sup> Research can help explain the conditions under which these guidelines will be implemented by employers.

We know that hiring many contingent employees changes the organizational culture. We need to develop strategies that effectively manage the tensions and conflicts that arise in a blended workforce of permanent and contingent workers. The management of the attitudes and performance of contingent employees may require different methods than for permanent employees; the methods also may depend on

whether the workers are voluntarily or involuntarily in contingent jobs. Case studies of how various employers manage their blended workforces should provide useful insights.

### **Extending Coverage of Employment Protections and Benefits**

We know that employees with less education and fewer skills—notably women, minorities, younger workers, and those employed involuntarily in contingent work such as part-time jobs—have experienced the negative effects of nonstandard employment. These include lower wages and the receipt of few, if any, employment-related benefits from either the employer or the social welfare system. While some of the individuals in contingent employment can make education and lifestyle choices to move into full-time standard employment and improve their opportunities, many will be left with few options for change and therefore will remain relatively disadvantaged. Consequently, the challenge is to design a more flexible social welfare system to provide employment protections and benefits to contingent employees that mirror the protections provided to full-time permanent employees. Another way of stating this goal is to recognize that “[w]hile we cannot change the level of risk in today’s economy, we can change the rules that govern how risk is shared among the participants to the economic game” (Jacoby 1999, p. 145).

Two research projects would help move us toward this goal. First, in the United States we need to measure the extent of noncoverage of the various social welfare programs at the national level. This research would provide the information for the design of methods and policy to cover those presently excluded from coverage, as well as the evaluation of unintended consequences. Researchers can evaluate the advantages and disadvantages of different designs for prorated benefits, portable pension plans, unemployment insurance, and other programs.

Because of the dominance of women in some of the most economically vulnerable forms of contingent work such as part-time employment, tracking and evaluating government efforts to support gender equality will help nations monitor their progress. In the United States attention must be given to finding ways to improve the safety net for these female workers. Japan also is seeking ways to address the needs of a changing female labor force in which fewer women are marry-

ing and marriages are occurring later in life.<sup>4</sup> In the EU “. . . the social contract has failed to incorporate the high-risk groups and ought to be reviewed. Above all, it must take account of the gender divide, which has been largely disregarded until now . . .” (Jouen and Caremier 2000, p. 29).

### **Comparative Research on Regulation**

Comparative research provides insights into how a balance between supporting flexibility and extending social protections to relatively vulnerable contingent workers can be structured using different models of regulation (Vosko 1998, pp. 26–27). This in turn requires understanding national preferences for “relative equality of compensation” and “relative equality in the form of labor market participation” since “not all forms of equality can be optimized simultaneously” (DiPrete et al. 2004). These trade-offs can be explored in studies of temporary employment agencies and efforts to “harmonize” regulations within the EU for part-time employment.

We have seen that one of the fastest-growing forms of contingent employment in the mature economies of the United States, Japan, and Europe is temporary employment arranged by temporary employment agencies (Kelloway, Gallagher, and Barling 2004, p. 111). Unlike the United States, in both Japan and Europe this growth has resulted from deliberate national policy choices. However, we do not have much empirical analysis documenting how temporary agency workers actually fare in the labor market.<sup>5</sup> Empirical evidence from four countries with different regulatory environments—Britain (Booth, Francesconi, and Frank 2002); France (Blanchard and Landier 2002); Sweden (Holmlund and Storrie 2002); and Spain (Dolado, García-Serrano, and Jimeno 2002)—suggests that overall an expansion of temporary jobs to increase labor market flexibility has measurable negative consequences for temporary workers relative to permanent employment (Booth, Dolado, and Frank 2002). Further comparative research is needed to explore this finding in other countries, as well as to differentiate the impact of institutions and culture on male and female part-time workers (Pfau-Effinger 1998).

A major goal of the EU is to create a single labor market in which workers can move freely by coordinating and harmonizing the ap-

proaches to nonstandard employment used by its member nations. This requires creating consistent standards to determine the employment conditions of part-time workers and providing the same basic minimum social protections for temporary employees in all of the member nations (Vosko 1998).<sup>6</sup> The achievement of the EU goals will require the use of voluntary coordination of policies (referred to as the “open method of coordination”) across nations and EU directives, i.e., “soft law” supplemented by “hard law” measures such as the Part-Time Workers’ Directives (Ashiagbor 2004; Sciarra 2004). Researchers can study and monitor the impact of the implementation of this European Employment Strategy over time.

Finally, research can consider how the lessons learned by the mature economies can provide insights for developing countries such as People’s Republic of China (PRC) and India to help them proactively design their legal structure and social safety nets to support labor market flexibility. The importance of these two nations in the global economy is growing rapidly, and their populations are moving rapidly from employment in agriculture to manufacturing and service sectors. However, in the PRC industrial restructuring reduced employment from 1993 to 2002, creating the same problems for laid-off workers as those experienced in the United States and Japan (Lu et al. 2002; Banister 2005b). In the PRC movement into contingent employment—often through migration to other parts of the country—can result in not only the loss of earnings and social welfare benefits such as pensions and unemployment pay, but also the loss of subsidies for transportation, housing, food allowances, and other benefits provided by employers (Banister 2005a).

### **Unions and Nonprofit Organizations as Change Agents**

Labor unions and nonprofit organizations in the United States have directed their attention in recent years to improving the economic welfare of the working poor—low-wage contingent workers. Some unions see the opportunity to serve as an advocate for contingent workers as an extension of their traditional leadership roles in the protection of workers’ welfare, while nonprofit organizations serve as advocates for economic justice for the working poor. Both use multiple strategies: conducting campaigns to publicize the economic realities faced by the

working poor, maintaining Web sites on which information is provided to assist contingent workers and those working on their behalf, sponsoring research on the factors that determine the opportunities of the working poor, organizing community efforts, and pursuing legislative and political initiatives. In addition, unions are working to organize these workers. However, we know relatively little about how widespread such efforts are and what their actual impact may be. Case studies of the effectiveness of these change agents should yield insights into the impact of a variety of strategies on employment and wages.

Stone (2004) argues that this expansion of union activities into the community and political action to represent a broader segment of the workforce, including contingent workers, is a predictable response to the transformations in the nature of work. As the attachment of employees to employers is reduced, unions must change from bargaining with one employer to bargaining with groups of employers to improve workers' compensation and conditions of work. She distinguishes two new models of union activity. The first is the "new craft unionism" based on occupations and bargaining industrywide with employer groups to facilitate worker mobility between employers. The focus is the creation of minimum standards and the provision of training.

The second model of "citizen unionism" also focuses on facilitating contingent worker mobility, setting minimum standards, and providing training, but only works within a locality or region and is not necessarily limited to a particular occupational group. In addition, efforts are made to improve the local social infrastructure through improved child care and legal assistance, and the encouragement of corporate support. Also, as discussed below, citizen unionism often is based on a collaboration between nonprofit organizations, local unions, and other local community groups working together to achieve a living wage in a specific geographic location (Stone 2004, Chapter 10).

The efforts by the AFT, the leading organizer of part-time faculty (AFT 2003), to improve the welfare of part-time teachers is an example of the new craft unionism based on occupation. It provides protections for part-time faculty while enabling them to move between employers. A two-pronged approach is used: legislative and political action, and collective bargaining. This dual strategy was used by the Washington Federation of Teachers (WFT), an AFT affiliate. In 1999 the WFT successfully pursued a public campaign for pay equity and lobbied to

convince the governor and the legislature in the State of Washington to include additional funds in the state budget to increase the pay for part-time faculty. Also, the criterion for participation in the retirement plan was modified, so more part-time faculty became eligible to participate.<sup>7</sup> Subsequently in 2000 a prorata sick leave policy was approved for part-time faculty (AFT 2001). In addition, the AFT used collective bargaining to improve the pay, benefits, and conditions of work for part-time faculty.<sup>8</sup>

Another example is the media-intensive multiunion campaign begun in 2004 that focused on retail workers employed by Wal-Mart. It was led by the AFL-CIO to pressure Wal-Mart to become a better corporate citizen by increasing its wages and health benefits. Because of the size of the company, no single union can handle the challenge alone. The campaign was not designed as a unionization effort, but rather as a means of publicizing the relatively low wages that Wal-Mart pays throughout the United States, as well as the impact of the introduction of its supercenters into specific locations (Greenhouse 2004; Quisumbing 2005).

Case studies of these and other union activities can help us understand the conditions that determine whether a union will try to organize low-wage contingent workers, the factors determining which strategies are selected by the unions and why, and which organizing strategies are the most effective for different groups of contingent workers. Comparative research on the strategies used by unions in other countries also may provide insights into strategies for unions in the United States, and perhaps vice versa.

Examples of citizen unionism are the California Partnership for Working Families (CPWF) and Working Today. As part of their broader commitment to economic justice, these nonprofit organizations are working for both decent standards of living for low-wage contingent workers and employer compliance in properly classifying employees (see Chapter 5). Their approach is aimed at improving social welfare through the payment of a living wage higher than the legally mandated minimum wage to all eligible workers. This objective is consistent with the employer responsibilities identified by the United Nations Subcommittee on the Promotion and Protections of Human Rights (2003)<sup>9</sup>:

Transnational corporations and other business enterprises shall provide workers remuneration that ensures an adequate standard

of living for them and their families. Such remunerations shall take due account of their needs for adequate living conditions with a view towards progressive improvement.

CPWF is a nonprofit, statewide consortium that links organizations in four major population areas: the East Bay area of San Francisco, Los Angeles, San Jose, and San Diego. It is committed to an emerging model of economic development that includes as the primary goal “the creation of economic opportunity and the reduction of poverty and social inequality” so that development works for the benefit of communities rather than just providing profits to developers and sales tax income (California Partnerships for Working Families; Center on Policy Initiatives 2004; Karjanen and Baxamusa 2003). Ordinances and agreements already have been passed which require the payment of a “living wage” in the East Bay, Los Angeles, and San Jose. One of the CPWF partners, the Center for Policy Initiatives (CPI) in San Diego, is presently spearheading the San Diego Living Wage Campaign.<sup>10</sup> More than 20 unions support this initiative in San Diego.

Another example is Working Today, which was created in 1995 to place on the national agenda the issues of part-time workers and others in temporary and short-term jobs. This national network includes a variety of organizations ranging from labor unions to community groups. One of its first projects was the Portable Benefits Fund created to provide access to affordable health insurance (Horowitz 2000; Working Today).

Case studies of organizations such as CPWF and Working Today can help explain the strategies selected, the factors determining which strategies are most effective, and the actual impact on the welfare of contingent workers.<sup>11</sup> While these groups have often used city-by-city campaigns, we do not know whether this is the most effective way to generate change. Also, although there are more than 120 living wage laws across the United States, we do not know much about the extent of their actual impact on working families. For example, the Berkeley Living Wage Ordinance of 1999 requires city contractors and developers who receive project subsidies of more than \$100,000 to pay the living wage rate of \$11.37 an hour (California Partnerships for Working Families). However, this means that many low-wage workers are not covered. We do not know whether employers have found ways to avoid complying with the law or what the unintended consequences, either

positive or negative, for covered and noncovered workers are. We do not know what factors will explain the success or failure of approaches such as the Portable Benefits Fund.

## CONCLUSION

All labor market participants, whether employers, employees, or unions, operate within the legal framework of their nations and the expectations of their societies. What they can and cannot do is regulated by government, which can play a supportive role or create barriers to change. Each nation therefore has to choose how it will address the challenges of designing its future employment relations system to explicitly include workers in nonstandard employment arrangements. The challenge for the future is to develop public policies to protect the truly contingent workers at least as well as we protect workers in standard employment arrangements.

Research will provide guidance for the selection of the components chosen by employers, unions, and governments for this future system. It also will help identify better approaches to balancing the employer and the employee interests.<sup>12</sup> The need is for flexibility and efficiency while treating all employees equitably in a world of rapid and continuous economic change. What is sought is “a more humane model of flexibility” (Jouen and Caremier 2000, p. 135).

## Notes

1. For a detailed discussion of the factors determining the dynamics of transitional labor markets see O'Reilly, Cebrián, and Lallement (2000).
2. The CFCW was created in 1999 in Seattle, Washington. Permatemps are defined as contingent employees who have been misclassified by employers and therefore ineligible for job security, equal pay, and benefits.
3. Many adjunct faculty, along with graduate students, perceive themselves to be exploited by the low pay and poor working conditions at colleges and universities in the United States. They are seeking unionization as a means of addressing their employment concerns. Unions as diverse

as the California Part-Time Faculty Association, the National Education Association, and the AFT have been organizing these contingent faculty. See Smallwood (2002).

4. This situation is a source of concern to the Japanese national government. Since the latter half of the 1970s the birth rate has followed a steady downward trend. The country experienced in 2004 the lowest rate of population growth since 1899 when data collection began, and international migration adds to the population only marginally. At the same time the population is aging rapidly, and much faster than in Western Europe and the United States. For example, it is projected that in 2030 the percentage of the population aged 65 and over in the United States will be about 19 percent, while in Japan it will be about 30 percent. See Ujimoto (2000) and Japanese Ministry of Internal Affairs and Communications (2006).
5. It is important to remember that temporary employment firms are not necessarily inherently bad actors in the labor market. However, the way in which they conduct their business has disadvantaged the workers they hire by not providing many of the job protections available to full-time core workers. While temporary employment arrangements provide employers with an option for flexibility, they also relieve employers to varying degrees depending on the country from some of the costs associated with permanent employees.
6. The “European Framework Agreement on Part-Time Work” was signed in June 1997. The agreement states the principle of nondiscrimination that “part-time workers shall not be treated in a less favorable manner than comparable full-time workers solely because they work part-time unless different treatment is justified on objective grounds” (p. 242). It also requires the member states to identify and eliminate obstacles that will limit part-time employment opportunities. Employers are expected to facilitate the movement of employees between part-time and full-time work and vice versa. However, this is not a comprehensive agreement. There is no reference to social security issues since these matters are left to each country. The wording in the nondiscrimination statement also permits employers to treat part-time and full-time workers differently under some circumstances. See European Union (1997). For a detailed discussion of the tension within the EU as it works to increase labor market flexibility see Teague (1999).
7. A recommendation also was made by the state agency overseeing community colleges to increase the number of full-time jobs and to use fewer part-time faculty.

8. Collective bargaining also was used to restore full-time faculty positions and negotiate provisions which permit full-time nontenured faculty to move to tenure-track positions. See Chapter 4 for additional examples of the use of collective bargaining to improve pay, benefits, and conditions of work.
9. Similar standards also have been set by other groups such as Social Accountability International (SAI), a nonprofit organization based in the United States. SAI provides codes of conduct for business community organizations such as the Association of Community Organizations for Reform Now (ACORN) that also are pursuing policy changes to create living wage ordinances. However, while such goals are expressed as ethical goals, it is not easy to reach agreement on a specific standard, although minimal standards can be set. Not surprisingly, the U.S. Chamber of Commerce, along with other business groups, has actively opposed the creation of living wage standards (Lafer 2005). For a more detailed discussion of codes of social accountability which support the concept of the living wage, see Wheeler (2005).
10. The CPI provides information and serves as an advocacy group for workers in “retail and service jobs—jobs that are often just or above the minimum wage with no health care benefits.” In 1994 the first living wage was adopted in Baltimore. See Center on Policy Initiatives (2006).
11. For additional examples of innovative ways to improve the welfare of nonstandard employees see Carré and Joshi (2000).
12. For an expanded discussion of the importance of balancing employer and employee interests see Budd, Gomez, and Meltz (2004).

## References

- American Federation of Teachers (AFT). 2001. *Marching toward Equity: Curbing the Exploitation and Overuse of Part-Time and Non-tenured Faculty*. Washington, DC: American Federation of Teachers.
- . 2002. *Standards of Good Practice in the Employment of Part-Time/Adjunct Faculty*. Washington, DC: American Federation of Teachers.
- . 2003. “Fighting for the Profession: A History of AFT Higher Education” (March). [http://www.aft.org/higher\\_ed/pubs-reports/reportslist\\_chron.htm](http://www.aft.org/higher_ed/pubs-reports/reportslist_chron.htm) (accessed April 2, 2006).
- Ashiagbor, D. 2004. “The European Employment Strategy and the Regulation of Part-Time Work.” In *Employment Policy and the Regulation of Part-Time Work in the European Union: A Comparative Analysis*, S. Sciarra, P.

- Davies, and M. Freedland, eds. Cambridge: Cambridge University Press, pp. 35–62.
- Banister, J. 2005a. “Manufacturing Earnings and Compensation in China.” *Monthly Labor Review* 128(8): 22–40.
- . 2005b. “Manufacturing Employment in China.” *Monthly Labor Review* 128(7): 11–29.
- Befort, S.F. 2003. “Revisiting the Black Hole of Workplace Regulation: A Historical and Comparative Perspective of Contingent Work.” *Berkeley Journal of Employment and Labor Law* 24(1): 153–178.
- Belous, R.S. 1999. *The Contingent Economy: The Growth of the Temporary, Part-Time and Subcontracted Workforce*. Washington, DC: National Planning Association.
- Blanchard, O., and A. Landier. 2002. “The Perverse Effects of Partial Labour Market Reform: Fixed-Term Contracts in France.” *The Economic Journal* 112(480): 214–244.
- Booth, A.L., J.J. Dolado, and J. Frank. 2002. “Symposium on Temporary Work—Introduction.” *The Economic Journal* 112(480): 181–188.
- Booth, A.L., M. Francesconi, and J. Frank. 2002. “Temporary Jobs: Stepping Stones or Dead Ends?” *The Economic Journal* 112(480): 189–213.
- Budd, J.W., R. Gomez, and N.M. Meltz. 2004. “Why a Balance is Best: The Pluralist Industrial Relations Paradigm of Balancing Competing Interests.” In *Theoretical Perspectives on Work and the Employment Relationship*, B.E. Kaufman, ed. Champaign, IL: Industrial Relations Research Association pp. 195–227.
- California Partnership for Working Families. <http://www.californiapartnership.org> (accessed March 26, 2006).
- Carré, F., and P. Joshi. 2000. “Looking for Leverage in a Fluid World: Innovative Responses to Temporary and Contracted Work.” In *Nonstandard Work: The Nature and Challenges of Changing Employment Arrangements*, F. Carré, M.A. Ferber, L. Golden, and S.A. Herzenberg, eds. Champaign, IL: Industrial Relations Research Association, pp. 313–339.
- Center for a Changing Workforce. 2002. “A Million Hours of ‘Temporary Work’: How the UW Hospitals Mislabel Hundreds of Employees to avoid providing Health Insurance.” Seattle, Washington. <http://www.cfcw.org/uwmcReport11-02.pdf> (accessed March 27, 2006).
- Center on Policy Initiatives. 2004. *Hidden Costs: The Public Cost of Low-Wage Jobs in San Diego*. Research report, San Diego, March. [http://www.onlinecpi.org/campaigns\\_living\\_wage.html](http://www.onlinecpi.org/campaigns_living_wage.html) (accessed March 27, 2006).
- . 2006. Living Wage Campaigns. [http://www.onlinecpi.org/campaigns\\_living\\_wage.html](http://www.onlinecpi.org/campaigns_living_wage.html) (accessed March 27, 2006).
- DiPrete, T.A., D. Goux, E. Maurin, and A. Quesnel-Valle. 2004. “Work and

- Pay in Flexible and Regulated Labor Markets: A Generalized Perspective on Institutional Evolution and Inequality Trends in Europe and the U.S.” <http://www.soc.duke.edu/~tdiprete/web/unified021404.pdf> (accessed March 27, 2006).
- Dolado, J.J., C. García-Serrano, and J.F. Jimeno. 2002. “Drawing Lessons from the Boom of Temporary Jobs in Spain.” *The Economic Journal* 112(480): 270–295.
- European Union. 1997. “European Framework Agreement on Part-Time Work.” [http://www.itcilo.org/campaigns\\_living\\_wage.html](http://www.itcilo.org/campaigns_living_wage.html) (accessed March 27, 2006).
- Godard, J. 2003. “The New Institutionalism, Capitalist Diversity, and Industrial Relations.” In *Theoretical Perspectives on Work and the Employment Relationship*, B.E. Kaufman, ed. Champaign, IL: Industrial Relations Research Association, pp. 229–264.
- Gonos, G. 1997. “The Contest over ‘Employer’ Status in the Postwar United States: The Case of Temporary Help Firms.” *Law and Society Review* 31(1): 81–110.
- Greenhouse, S. 2004. “Unions Plan Big Drive for Better Pay at Nonunion Wal-Mart.” *The New York Times*, Dec. 11.
- Hanbey, M. 2003. “TANF Leavers and Temp Work in Washington State, 1998–2000.” Master’s thesis, University of Washington. <http://www.cfcw.org/TANFTempsStudy.pdf> (accessed March 27, 2006).
- Holmlund, B., and D. Storrie. 2002. “Temporary Work in Turbulent Times: The Swedish Experience.” *The Economic Journal* 112(480): 245–269.
- Horowitz, S. 2000. “New Thinking on Worker Groups’ Role in a Flexible Economy.” In *Nonstandard Work: The Nature and Challenges of Changing Employment Arrangements*, F. Carré, M.A. Ferber, L. Golden, and S.A. Herzenberg, eds. Champaign, IL: Industrial Relations Research Association, pp. 393–398.
- Jacoby, S.M. 1999. “Are Career Jobs Headed for Extinction?” *California Management Review* 42(1): 123–145.
- Japanese Ministry of Internal Affairs and Communications. 2006. *Statistical Handbook of Japan*. Chapter 2, “Population.” [http://www.stat.go.jp/English/data/handbook/c02cont.htm/cha2\\_2](http://www.stat.go.jp/English/data/handbook/c02cont.htm/cha2_2) (accessed April 2, 2006).
- Jouen, M., and B. Caremier. 2000. *The Future of Work*. Luxembourg: Office for Official Publications of the European Communities.
- Kahn, S. 2000. “The Bottom-Line Impact of Nonstandard Jobs on Companies’ Profitability and Productivity.” In *Nonstandard Work: The Nature and Challenges of Changing Employment Arrangements*, F. Carré, M.A. Ferber, L. Golden, and S.A. Herzenberg, eds. Champaign, IL: Industrial Relations Research Association, pp. 235–265.

- Karjanen, D., and M. Baxamusa. 2003. *Subsidizing Wal-Mart: A Case Study of the College Grove Redevelopment Project*. Research report by the Center for Policy Initiatives, San Diego, November. <http://www.onlinecpi.org> (accessed March 26, 2006).
- Kelloway, E.K., D.G. Gallagher, and J. Barling. 2004. "Work, Employment, and the Individual." In *Theoretical Perspectives on Work and the Employment Relationship*, B.E. Kaufman, ed. Champaign, IL: Industrial Relations Research Association, pp. 105–131.
- Kochan, T.A. 1998. "Back to Basics: Creating the Analytical Foundations for the Next Industrial Relations System." *Proceedings of the Fiftieth Annual Meeting of the Industrial Relations Research Association*: 236–246.
- Lafer, G. 2005. "The Critical Failure of Workplace Ethics." In *The Ethics of Human Resources and Industrial Relations*, J.W. Budd and J.G. Scoville, eds. Champaign, IL: Labor and Employment Relations Association, pp. 273–297.
- Lester, G. 1998. "Careers and Contingency." *Stanford Law Review* 51(1): 73–145.
- Lu, M., S. Liu, J. Fan, and Y. Yan. 2002. "Employment Restructuring during China's Economic Transition." *Monthly Labor Review* 125(8): 25–31.
- Martin, R. and G.J. Bamber. 2004. "International Comparative Employment Relations Theory: Developing the Political Economy Perspective." In *Theoretical Perspectives on Work and the Employment Relationship*, B.E. Kaufman, ed. Champaign, IL: Industrial Relations Research Association, pp. 293–320.
- National Employment Law Project. <http://www.nelp.org> (accessed March 27, 2006).
- O'Reilly, J., I. Cebrián, and M. Lallement, eds. 2000. *Working-Time Changes: Social Integration through Transitional Labour Markets*. Cheltenham, UK: Edward Elgar Publishing, Ltd.
- Pfau-Effinger, B. 1998. "Culture or Structure as Explanations for Differences in Part-Time Work in Germany, Finland and the Netherlands?" In *Part-Time Prospects: An International Comparison of Part-Time Work in Europe, North America and the Pacific Rim*, J. O'Reilly and C. Fagan, eds. London: Routledge, pp. 177–198.
- Quisumbing, M. 2005. "Corporate Responsibility and Labor: Choosing Where to Buy Groceries: The High Price of Wal-Mart's 'Always Low Prices: Always.'" *Journal of Law and Social Challenges* 7(1): 111–140.
- Sciarra, S. 2004. "New Discourses in Labour Law: Part-Time Work and the Paradigm of Flexibility." In *Employment Policy and the Regulation of Part-Time Work in the European Union: A Comparative Analysis*, S. Sciarra, P.

- Davies, and M. Freedland, eds. Cambridge: Cambridge University Press, pp. 3–34.
- Smallwood, S. 2002. “Faculty Union Issues Standards for Treatment of Adjuncts.” *The Chronicle of Higher Education*, 48 (August 2) A:12.
- Stone, K.V.W. 2004. *From Widgets to Digits: Employment Regulations for the Changing Workplace*. Cambridge: Cambridge University Press
- Teague, T. 1999. *Economic Citizenship in the European Union: Employment Relations in the New Europe*. London: Routledge.
- Ujimoto, K.V. 2000. “The Aging of Japanese Society: Human Resource Management in Transition.” In *Japan after the Economic Miracle: In Search of New Directions*, P. Bowles and L.T. Woods, eds. Dordrecht, The Netherlands: Kluwer Academic Publishers, pp. 169–183.
- United Nations Subcommittee on the Promotion and Protection of Human Rights. 2003. “Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights.” <http://www1.umn.edu/humanrts/links/norms-Aug2003.html> (accessed March 27, 2006).
- U.S. Department of Labor. 1994. *The Dunlop Commission on the Future of Worker-Management Relations—Final Report*. Washington, DC: U.S. Department of Labor.
- Wheeler, H.N. 2005. “Globalization and Business Ethics in Employment Relations.” In *The Ethics of Human Resources and Industrial Relations*, J.W. Budd and J.G. Scoville, eds. Champaign, IL: Labor and Employment Relations Association, pp. 115–140.
- Working Today. <http://www.workingtoday.org> (accessed March 27, 2006).
- Vosko, L.F. 1998. “Regulating Precariousness? The Temporary Employment Relationship Under the NAFTA and the EC Treaty.” *Industrial Relations* 53(1): 2–34.
- Zeytinoğlu, I.U. 1999. “International Policymaking: The ILO Standards on Changing Work Relationships.” In *Changing Work Relationships in Industrialized Economies*, edited by I.U. Zeytinoğlu. Philadelphia: John Benjamins Publishing Company, pp. 219–237.

**The Shadow Workforce**  
**Perspectives on Contingent**  
**Work in the United States,**  
**Japan, and Europe**

Sandra E. Gleason  
*Editor*

2006

W.E. Upjohn Institute for Employment Research  
Kalamazoo, Michigan

## Library of Congress Cataloging-in-Publication Data

The shadow workforce : perspectives on contingent work in the United States, Japan, and Europe / Sandra E. Gleason, editor.

p. cm.

Includes bibliographical references and index.

ISBN-13: 978-0-88099-288-6 (pbk. : alk. paper)

ISBN-10: 0-88099-288-3 (pbk. : alk. paper)

ISBN-13: 978-0-88099-289-3 (hardcover : alk. paper)

ISBN-10: 0-88099-289-1 (hardcover : alk. paper)

1. Temporary employment—United States. 2. Temporary employment—Japan.  
3. Temporary employment—Europe. 4. Part-time employment—United States.  
5. Part-time employment—Japan. 6. Part-time employment—Europe. 7. Contracting out—United States. 8. Contracting out—Japan. 9. Contracting out—Europe.

I. Gleason, Sandra E.

HD5854.2.U6S53 2006

331.25'729—dc22

© 2006

W.E. Upjohn Institute for Employment Research  
300 S. Westnedge Avenue  
Kalamazoo, Michigan 49007-4686

The facts presented in this study and the observations and viewpoints expressed are the sole responsibility of the author. They do not necessarily represent positions of the W.E. Upjohn Institute for Employment Research.

Cover design by Alcorn Publication Design.

Index prepared by Diane Worden.

Printed in the United States of America.

Printed on recycled paper.