

Precarious

Temporary Agency Work in British Columbia

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by Andrew Longhurst

JULY 2014



CCPA
CANADIAN CENTRE
for POLICY ALTERNATIVES
BC Office



PRECARIOUS:

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By Andrew Longhurst

July 2014

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Andrew Longhurst conducted this research while serving as the inaugural Rosenbluth Intern in Policy Research, an award which provides mentorship and financial support for a graduate student to conduct an original research project on public policy as it relates to social, environmental or economic justice.

Precarious

Temporary Agency Work in British Columbia

RARELY DOES A WEEK PASS without mention of the realities of the “new economy” — lacklustre employment numbers, deteriorating job quality and the increasingly elusive permanent job. Employment norms are being remade to provide greater “flexibility” for employers while delivering precariousness for workers. We are witnessing a shift away from the standard employment relationship of permanent work to a labour market increasingly characterized by various types of temporary employment. The rise of temporary agency work is part of this larger story.

This research provides a glimpse into temporary agency work (“temp work”) and the experiences of British Columbians engaged in this precarious form of employment. Public policies have not adequately addressed changing employment norms related to the increase in labour market intermediaries and temporary agency work. This study makes policy recommendations aimed at reducing the precarious nature of temporary agency work.

Temporary agency work is characterized by a triangular employment arrangement where an employment agency is contracted by a client firm to supply temporary labour in its workplace. The worker is supervised by the third-party client, but the worker remains an employee of the agency.

This project employed 31 in-depth interviews with temporary agency workers (TAWs), agency staff and industry insiders, and former BC Employment Standards Branch staff. The study draws upon a number of studies, statistical surveys, BC Employment Standards Branch licensing data and a Freedom of Information request.

We are witnessing a shift away from the standard employment relationship of permanent work to a labour market increasingly characterized by various types of temporary employment.

KEY FINDINGS

- Temporary employment (which includes contract, seasonal, casual and agency work) is on the rise. Between 2004 and 2013, permanent employment accounted for 76 per cent of new BC jobs and temporary employment accounted for 24 per cent. In the years following BC’s recession (2009–2013), 60 per cent of BC jobs created were permanent and 40 per cent were temporary.

The majority of workers interviewed sought full-time, permanent employment. They pursued temporary agency work as a last resort, contrary to industry rhetoric that often depicts temporary agency work as a lifestyle choice.

- Temporary jobs are growing more quickly than permanent jobs. From 2004 to 2013, temporary jobs grew at a rate of 30 per cent, while the rate of permanent job creation stood at 13 per cent. In the post-recessionary period (2009–2013), the rate of temporary job creation (21 per cent) again exceeded the rate of permanent job creation (4 per cent).
- The employment services industry, a proxy measure of temporary agency work, is growing. In BC, the industry grew from 8,848 jobs in 2004 to 19,580 by 2013; operating revenues increased from \$355 million in 2004 to \$675 million in 2012.
- Temporary agency work is a type of precarious employment, based on qualitative and statistical evidence of the following: limited duration and high risk of termination; workers' lack of control over working conditions and the amount and pace of work; lack of protection, particularly through the Employment Standards Act (ESA); low incomes; and debt burden associated with temporary agency work.
- A majority of TAWs are women, and race and citizenship status significantly shape the experience of these workers. Approximately 33 per cent of new Canadian immigrants seek entry into the labour market through employment agencies (although not all of these are temporary employment agencies).
- Some interviews with low-income Vancouver Downtown Eastside residents and day-labour employment agency staff suggest that the bottom end of the employment services industry — particularly day-labour — benefits from low income-assistance rates. People on welfare (both basic and disability benefits) are allowed to earn and keep some income. But inadequate income assistance rates, which have been frozen since 2007, ensure that day-labour agencies have a consistent supply of marginalized people seeking out work, however precarious.
- The majority of workers interviewed sought full-time, permanent employment. They pursued temporary agency work as a last resort, contrary to industry rhetoric that often depicts temporary agency work as a lifestyle choice. TAWs spoke of the challenges posed by the uncertainty of their employment. Many expressed anxiety over their financial insecurity and inability to make important life plans, and they desired the workplace benefits generally associated with permanent employment.
- Although temporary agency work is often defended as offering a “foot in the door” for people seeking more permanent employment, in practice it often has the opposite effect. “Buy-out clauses” constrain the labour market mobility of TAWs by requiring employers to pay a fee to temporary agencies if they wish to hire TAWs directly. Interviewees report that this has prevented client firms from hiring TAWs permanently. Some interviewees described temporary agency work as a “trap,” since it provides needed income if no other work is available, but the longer a person works as a temp, the harder it becomes to secure permanent employment.
- Interviewees reported great difficulty in securing sufficient hours of work. Some, despite patching together assignments via numerous employment agencies, failed to gain full-time hours.
- Many TAWs, despite vigorously seeking employment, live in poverty. According to a 2004 Statistics Canada survey, total yearly median income for TAWs in Canada was \$7,850 compared to \$31,360 for permanent employees. TAWs interviewed for this

research universally reported low incomes and described living in poverty as a result of wages at or a few dollars above the minimum wage (even though the hourly bill rate between the client firm and the employment agency was substantially higher).

- TAWs reported taking out loans and accumulating debt as coping strategies to deal with the reality of precarious employment and low wages.
- TAWs are reluctant to decline assignments because they need the work and fear reprisals for refusal. This means that TAWs may find themselves in undesirable, strenuous, unpleasant and even unsafe assignments. TAWs interviewed, especially men working in general day-labour, confirm that assignments were often the least desirable jobs, tasks that permanent employees would not perform.
- This research uncovered a number of violations of the Employment Standards Act:
 - Approximately two-thirds of Lower Mainland employment agencies were not licensed with the Employment Standards Branch. Furthermore, five of the unlicensed employment agencies had been cited previously for unlicensed operation.
 - Non-payment for travel time between the employment agency and work assignment.
 - Agencies calling TAWs into work for promised assignments that did not materialize, leaving the workers with no pay.
 - TAWs being required to attend unpaid training sessions as a condition of employment.
- Notably, none of the TAWs interviewed used the Employment Standards Branch's "self-help" dispute resolution process to address rights violations. Because they feared reprisal and needed assignments, TAWs felt unable to address or complain about employment standards violations.

Many TAWs, despite vigorously seeking employment, live in poverty.

KEY RECOMMENDATIONS

- Strengthen enforcement of the Employment Standards Act. Restore the enforcement capacity of the Employment Standards Branch and conduct regular audits of employment agencies.
- Ensure employment agency licensing compliance. Impose higher penalties on both unlicensed employment agencies and client firms that use unlicensed agencies.
- Eliminate the "self-help" kit and dispute resolution process, and ensure that workers who believe their workplace rights have been violated have the ability to complain directly to the Employment Standards Branch. It is inappropriate to expect vulnerable workers in insecure positions to advocate for themselves when they have been denied pay and hours to which they are entitled.

Modernize the
Employment Standards
Act to adequately
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triangular employment
relationship.

- Modernize the Employment Standards Act to adequately regulate employment agencies and the triangular employment relationship. This will provide greater clarity, protection and fairness for all parties involved in the triangular employment relationship.
- Adopt the principle of equal treatment. The ESA should ensure equal treatment for TAWs performing work comparable to that of permanent workers, including pay, statutory and employer-sponsored benefits and working conditions.
- Require that all TAWs be provided with written information about their employment rights; detailed information about the employment agency with which they are registered; and, for each assignment, a signed information document outlining the pay, hours, assignment duration and working conditions being offered.
- Provide certainty in the length of temporary agency assignments by requiring employment agencies to offer a new assignment at the same pay rate or compensation for lost pay if an assignment prematurely ends.
- Encourage transition to permanent employment by prohibiting “buy-out clauses” that impose a fee on client firms that wish to offer direct employment to TAWs, and prohibit clauses that restrict such mobility.
- Increase the minimum wage to reduce the economic hardship associated with temporary agency work.
- Conduct frequent and reliable statistical surveys to provide detailed portraits of non-standard employment, including temporary agency work, so policymakers can effectively address the transformation of the labour market.

Introduction

I would phrase it as modern-day slavery. It was just to do the crap...the jobs that no one else wanted to do that they just needed people to get out at a cheap price. (Rohit, 29)

IN 2013, NEARLY 263,000 BRITISH COLUMBIANS were in temporary forms of employment, including contract, seasonal, casual and temporary agency work.¹ Temporary employment is on the rise and represents 13.9 per cent of provincial employment, according to 2013 figures.² In the wake of the 2008–2009 recession, an astonishing 40 per cent of job creation has been temporary employment.³ These are worrisome trends that reflect an increasingly insecure labour market for workers in British Columbia.

In BC and across Canada we are witnessing a distinctive shift away from the *standard employment relationship* characterized by permanent employment, often associated with employer-paid benefits, to a precarious employment regime of non-standard and temporary employment with fewer protections, often lower wages and no benefits.⁴ Within the overall growth in temporary employment, one important component is the expansion of temporary agency workers (TAWs), more commonly known as “temp workers” — the subject of this study.

This report explores the rise of the employment services industry (ESI) and the first-hand experiences of TAWs employed by this industry.

ESI broadly refers to private employment agencies that recruit and place employees in both temporary and permanent positions for a client firm. Thus, the ESI sector is broader in scope than just TAWs, but TAWs represent the majority of the sector. ESI is a general term for labour market intermediaries that recruit and place employees in many industrial sectors and occupations. In this

TAWs often find themselves in the most economically insecure form of temporary employment due to the nature of the temporary and triangular employment relationship.

1 Statistics Canada CANSIM 282-0074.

2 Author’s calculations from Statistics Canada CANSIM 282-0074. This study excludes self-employment in all calculations, which represents a relatively small segment of the labour market. In evaluating temporary agency work, as a form of temporary employment, this research study is concerned with the jobs created by employers in the labour market, not in entrepreneurial activity.

3 Ibid.

4 Fudge and Vosko 2001.

EMPLOYMENT SERVICES INDUSTRY (also known as “staffing industry”): The employment services industry (ESI) “comprises establishments primarily engaged in listing employment vacancies and selecting, referring and placing applicants in employment, either on a permanent or temporary basis, and establishments primarily engaged in supplying workers for limited periods of time to supplement the workforce of the client.”⁵ In this report, the term ESI refers explicitly to Statistics Canada’s survey data on the employment services industry group. The ESI provides temporary, permanent and contract staffing as well as other goods and services. The broader ESI serves as a proxy for temporary agency work, since temporary staffing or temporary help services account for the majority of industry sales (60.7 per cent), followed by permanent assignments and contract staffing (32.4 per cent) and other goods and services such as human resources and personnel management duties (6.9 per cent).⁶

EMPLOYMENT AGENCIES: As a subset of the ESI, employment agencies are private labour market intermediaries that recruit, select and place applicants in employment in permanent or temporary positions across diverse industries and occupational settings. Depending on the arrangement, workers may be direct employees of the client firm (often called direct hire or permanent placement) or employees of the employment agency (see below). In BC, the Employment Standards Branch makes no distinction between employment agencies recruiting, for a fee to the client firm, temporary employees or permanent employees. Employment agencies may also include establishments that recruit foreign workers through the Temporary Foreign Worker Program.

TEMPORARY EMPLOYMENT: Temporary employment is a broad classification used by Statistics Canada to define employment that has a predetermined end date or that will end as soon as a specified project is completed. This classification includes seasonal jobs as well as temporary, term or contract jobs, including work done through an employment agency, casual jobs and other temporary work that does not fit into previous categories.⁷ Statistics Canada has collected data on temporary employment in the Labour Force Survey since 1997. Because temporary employment is a broad classification, it is used to demonstrate broader shifts in the labour market. In this report, temporary employment is not synonymous with temporary agency work.

TEMPORARY AGENCY WORK: Temporary agency work refers to workers engaged in a triangular employment relationship, where they are recruited by the employment agency and offered a temporary assignment in the client firm’s workplace, which workers may accept or decline. The employment agency is the employer of record. Temporary agency work is distinct from the Temporary Foreign Workers Program. This study evaluates the experiences of temporary agency workers (TAWs) engaged in the triangular employment relationship.

TRIANGULAR EMPLOYMENT RELATIONSHIP: The triangular employment relationship exists when a worker is an employee of the employment agency and is placed in the workplace of a client firm. Although the worker is the employee of the employment agency, the client firm supervises the worker. The triangular employment relationship exists in contrast to the standard employment relationship, where the worker is engaged in a direct, indefinite employment relationship and works directly under the supervision of the employer.⁸

5 Statistics Canada 2014b.

6 Statistics Canada 2014a. These are preliminary figures and are subject to revision.

7 This report uses the definition used by Statistics Canada in the Labour Force Survey.

8 See Vosko 2000 for a complete history and analysis of the triangular employment relationship in Canada.

report, the employment services industry is used throughout as a proxy measure for the rise of TAWs, as it is the broader ESI sector that is most consistently tracked by Statistics Canada.

Put simply, employment agencies sell workers' labour to third-party clients and turn a profit in the process. TAWs often find themselves in the most economically insecure form of temporary employment due to the nature of the temporary and triangular employment relationship.⁹

This report focuses specifically on the experiences of TAWs engaged in a triangular employment relationship involving an employment agency supplying workers to a client. Although temporary agency work is used in an increasingly diverse array of industries, ranging from low- to high-skilled work in many occupational settings, this study examines the middle and lower end of the temporary staffing hierarchy, dominated by employment agencies placing workers in low- and medium-skilled office/clerical, general (day-) labour and light industrial temporary assignments.

WHY THE EMPLOYMENT SERVICES INDUSTRY MATTERS

The precarious nature of temporary agency work requires urgent public policy attention.

Precarious employment is characterized by “uncertainty, lack of control, low income, and limited access to regulatory protections [and] it is shaped by employment status, the form of employment, social location and social context.”¹⁰ This research builds upon previous research¹¹ in finding that temporary agency work is a precarious form of employment.

Although the Temporary *Foreign Worker* Program has drawn considerable media and public attention, the *domestic* employment services industry largely escapes scrutiny. Across OECD countries over the last 30 years, this industry has been an important institution in the rise in temporary employment and the restructuring of labour markets.¹²

The ESI generated revenues of \$9.3 billion in 2010 in Canada. Importantly, temporary assignments and services accounted for the majority of ESI sales.¹³ Yet there has been very little research conducted on this industry and, specifically, on the experiences of TAWs in a BC context. On average, according to the global employment services and staffing industry association, temporary agency workers are employed approximately half the number of hours worked by full-time, permanent employees.¹⁴

This research is intended to stimulate an important discussion on the role of the employment services industry and temporary agency work in the labour market. The rise of temporary employment, and temporary agency work specifically, has significant implications for workers, precariousness in the labour market and poverty.

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9 Vosko 2000; Strauss and Fudge 2014, ch. 1.

10 Vosko and Clark 2009:27.

11 See Vosko 2000; Peck and Theodore 2001, 2002; Fuller and Vosko 2008; Strauss and Fudge 2014.

12 Vosko 2000; Strauss and Fudge 2014, ch. 1; Coe and Ward 2014.

13 Statistics Canada 2014a.

14 International Confederation of Private Employment Agencies 2013.

METHODOLOGY

This research study employs a mixed-methods approach, using qualitative data generated from 31 in-depth interviews, supplemented with studies, reports and statistical evidence largely from Statistics Canada.

Semi-structured interviews of 20–45 minutes were conducted between 2012 and 2013 and included the following participants:

- Twenty-two individuals who had worked, or were currently working, via employment agencies on a temporary basis;
- Seven employment agency staff; and
- Two former BC Employment Standards Branch staff members.

All research participants were provided anonymity; where they are cited directly, a pseudonym is given.¹⁵

HOW EMPLOYMENT AGENCIES ARE REGULATED IN BC

Employment agencies are regulated by the Employment Standards Act and Employment Standards Regulation. In British Columbia, Section 1 of the Employment Standards Act (ESA)¹⁶ defines “employment agency” as “a person who, for a fee, recruits or offers to recruit employees for employers” and sections 10, 11, 12 and 127 set out the provisions regulating employment agencies:

NO CHARGE FOR HIRING OR PROVIDING INFORMATION

10 (1) A person must not request, charge or receive, directly or indirectly, from a person seeking employment a payment for

- (a) employing or obtaining employment for the person seeking employment, or
- (b) providing information about employers seeking employees.

(2) A person does not contravene this section by requesting, charging or receiving payment for any form of advertisement from the person who placed the advertisement.

(3) A payment received by a person in contravention of this section is deemed to be wages owing and this Act applies to the recovery of the payment.

NO FEES TO OTHER PERSONS

11 (1) An employment agency must not make a payment, directly or indirectly, to a person for obtaining or assisting in obtaining employment for someone else.

(2) A farm labour contractor must not make a payment, directly or indirectly, to a person for whom the farm labour contractor’s employees work.

(3) A person does not contravene this section by paying for any form of advertisement placed by that person.

¹⁵ This research received University of British Columbia and Simon Fraser University ethics approval

¹⁶ Employment Standards Act, [RSBC 1996] Chapter 113.

EMPLOYMENT AND TALENT AGENCIES MUST BE LICENSED

12 (1) A person must not operate an employment agency or a talent agency unless the person is licensed under this Act....

POWER TO MAKE REGULATIONS

127 (1) The Lieutenant Governor in Council may make regulations referred to in section 41 of the *Interpretation Act*.

(2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations as follows:

- (b) establishing conditions of employment for employees or classes of employees, whether or not they have been excluded from a part of this Act;
- (c) respecting the licensing of employment agencies, talent agencies and farm labour contractors, including the following:
 - (i) establishing terms and conditions of licences, or terms and conditions that must be met for obtaining, continuing to hold or renewing a licence;
 - (ii) providing for the refusal, suspension, cancellation, renewal or reinstatement of licences, including the circumstances under which a licence may be refused, suspended, cancelled, renewed or reinstated;
 - (iii) providing for appeals of decisions made with respect to the refusal, suspension, cancellation, renewal or reinstatement of licences;
- (d) prescribing the duties of employment agencies, talent agencies and farm labour contractors;

(4) Regulations made under subsection (2)(c) may delegate a matter to or confer a discretion on the director.

Furthermore, sections 2, 3 and 4 of the Employment Standards Regulation¹⁷ stipulate the following obligations on employment agencies and the consequences of failure to comply:

LICENSING OF EMPLOYMENT AGENCIES

2 (1) An application for a licence to operate an employment agency must

- (a) be made to the director [of the Employment Standards Branch], and
- (b) be accompanied by a fee of \$100.

(2) The director may issue an employment agency licence only if the applicant has

- (a) completed a written application in a form required by the director,
- (b) paid the licence fee, and
- (c) satisfied the director that the applicant will operate an employment agency in the best interests of employers and persons seeking employment.

(3) The director may refuse to issue a licence to an applicant who has had a previous licence cancelled.

EMPLOYMENT AGENCY RECORDS

3 (1) An employment agency must keep a record of the following:

- (a) the name and address of each employer for whom the employment agency provides a service;
- (b) the name, occupation and address of each person who is directed to an employer for the purpose of being hired or who is provided with information about employers seeking employees.

¹⁷ Employment Standards Regulation, B.C. Reg. 396/95.

EMPLOYMENT AGENCY RECORDS CONT.

(2) The record must

- (a) be in English,
- (b) be kept at the employment agency's principal place of business in British Columbia, and
- (c) be retained by the employment agency for 2 years.

CANCELLATION OR SUSPENSION OF EMPLOYMENT AGENCY LICENCE

4 The director may cancel or suspend an employment agency's licence if the employment agency

- (a) makes a false or misleading statement in an application for a licence,
- (b) contravenes the Act or this regulation,
- (c) is operating or has operated the employment agency contrary to the best interests of employers and persons seeking employment, or
- (d) is placing a domestic with an employer and does not inform the employer of the requirement to register the domestic with the Employment Standards Branch in accordance with section 15 of the Act and section 13 of this regulation.

Research findings

GROWTH OF TEMPORARY EMPLOYMENT OVERALL

Statistics Canada's broad measure of temporary employment — a classification that includes seasonal, casual, contract and temporary agency work — is indicative of a broader transformation occurring in the BC labour market. In 1997, when Statistics Canada began measuring temporary employment, temporary jobs accounted for 10 per cent of total jobs in British Columbia. By 2013, temporary employment accounted for 14 per cent of jobs.¹⁸ While permanent employment is more prevalent in BC, temporary employment accounts for a growing share of job creation. This is evident through two measures: (1) temporary jobs as a percentage of total job creation and (2) the growth rate of temporary jobs versus permanent jobs.

While permanent employment is more prevalent in BC, temporary employment accounts for a growing share of job creation.

Temporary jobs account for a growing share of new BC jobs

From 2004 to 2013, permanent employment accounted for 76 per cent of new BC jobs while temporary employment accounted for 24 per cent. But in the years following BC's recession (2009–2013), 60 per cent of BC jobs created were permanent while temporary employment accounted for a significant 40 per cent of the growth (Figure 1). Not only is overall job growth important, but quality of employment matters. In the wake of the 2008–2009 recession, BC has witnessed a shaky recovery characterized by growing labour market insecurity.¹⁹ Employers are relying increasingly on temporary jobs instead of investing in permanent employees who may stabilize the economy.

Temporary jobs are growing more quickly than permanent jobs

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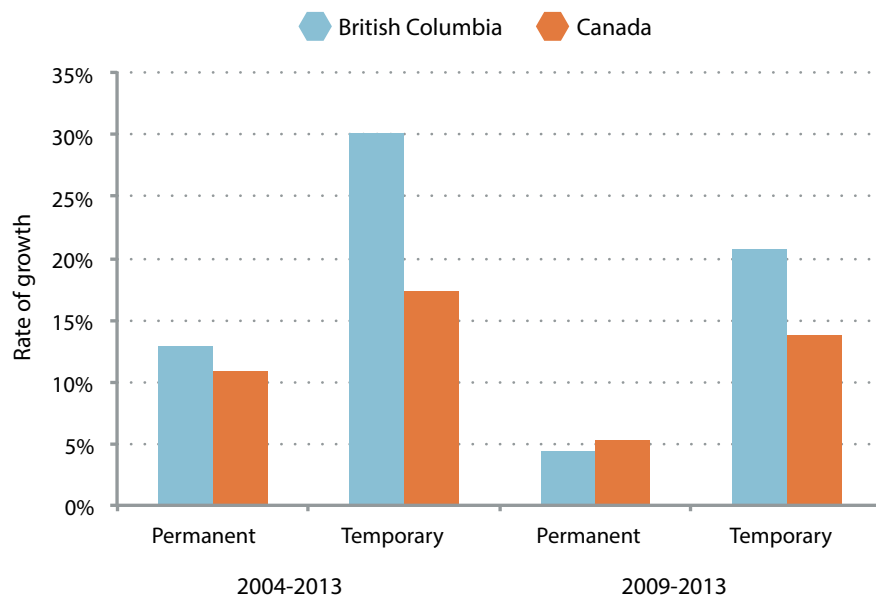
Temporary jobs are growing more quickly than permanent jobs, further evidence of a broader labour market transformation in British Columbia. From 2004 to 2013, the rate of temporary job creation outpaced permanent jobs (Figure 2). During this period, temporary jobs grew at a rate of 30 per cent, while the rate of permanent job creation stood at 13 per cent. In the post-recessionary period 2009–2013, the rate of temporary job creation (21 per cent) again exceeded the rate of permanent job creation (4 per cent). From 2004 to 2013 in Canada, temporary jobs have grown more quickly than permanent jobs. Moreover, temporary jobs grew more quickly than permanent jobs during the 2009–2013 post-recession years in Canada. This broad measure of growing temporary employment (including seasonal, casual, contract and agency work) provides evidence that a distinctive shift in the labour market is under way. This is the context through which we must understand the rise and significance of the employment services industry and labour market intermediaries, such as employment agencies, in the remaking of labour market and employment norms.

Figure 1: Share of BC jobs created by permanence



Source: Author's calculations from Statistics Canada, CANSIM Table 282-0080.

Figure 2: Employment growth by job permanence, BC and Canada



Source: Author's calculations from Statistics Canada, CANSIM Table 282-0080.

GROWTH OF THE EMPLOYMENT SERVICES INDUSTRY

According to Statistics Canada's employment figures, the employment services industry is growing. The ESI is the most precise measure of temporary agency employment available from Statistics Canada, and therefore the broader employment services industry serves as a proxy of temporary agency work, with temporary staffing accounting for the majority of industry sales. As discussed in Part 1, the ESI is primarily engaged in *temporary* staffing services, meaning that individuals — the temporary agency workers — are employees of the employment agency but are supervised by the client firm in its workplace.

Over the past 10 years (2004–2013), the ESI has seen considerable job growth in British Columbia. The industry went from 8,848 jobs in 2004 to 19,580 in 2013 (Figure 3) — a 121 per cent rate of growth (Figure 5). Over this same period, jobs in all of BC's sectors grew at a much smaller rate of 17 per cent (Figure 5). Across Canada, the industry has seen considerable growth—from 162,157 jobs in 2004 to 179,567 by 2013 (Figure 4). In 2013, BC had the fourth-greatest number of ESI jobs in Canada, following Alberta (26,069), Quebec (30,488) and Ontario (94,547).¹⁸

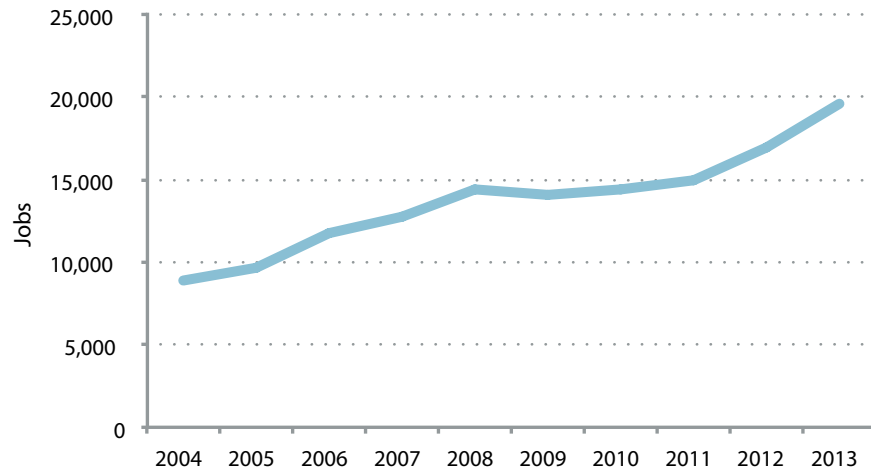
Crucially, the ESI has grown comparatively faster than overall provincial job growth in the post-recessionary period of 2009–2013. Over these years, the industry grew at a rate of 39 per cent, while BC's overall rate of employment growth remained at 5 per cent (Figure 6). Additionally, the ESI's rising operating revenues are illustrative of a growing industry. In BC, operating revenues grew from \$355 million in 2004 to \$675 million in 2012.¹⁹ As labour market intermediaries, the ESI is implicated in shaping BC's labour market and remaking employment norms.

Over the past 10 years, the employment services industry has seen considerable job growth in British Columbia.

¹⁸ Statistics Canada CANSIM 281-0024.

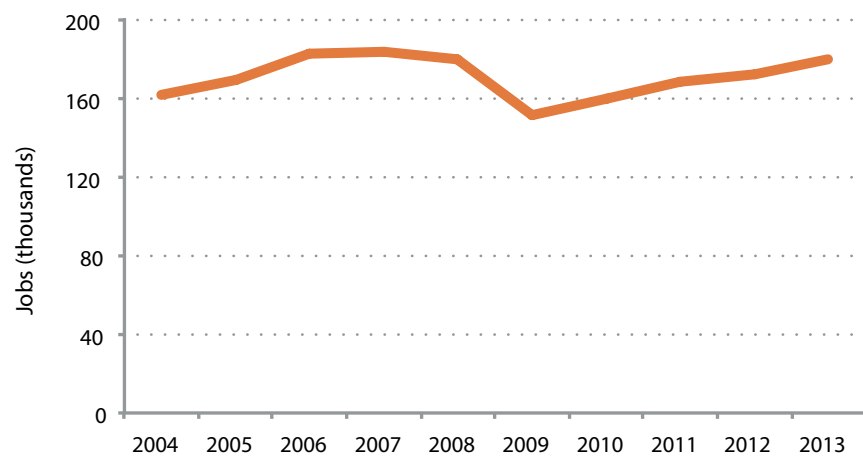
¹⁹ Statistics Canada CANSIM 361-0001.

Figure 3: Employment services jobs, BC, 2004–2013



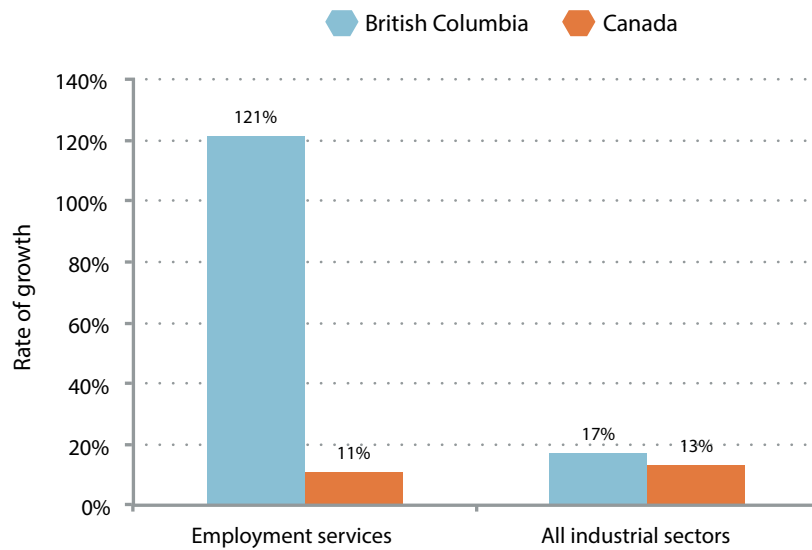
Source: Statistics Canada, CANSIM Table 281-0024.

Figure 4: Employment services jobs, Canada, 2004–2013



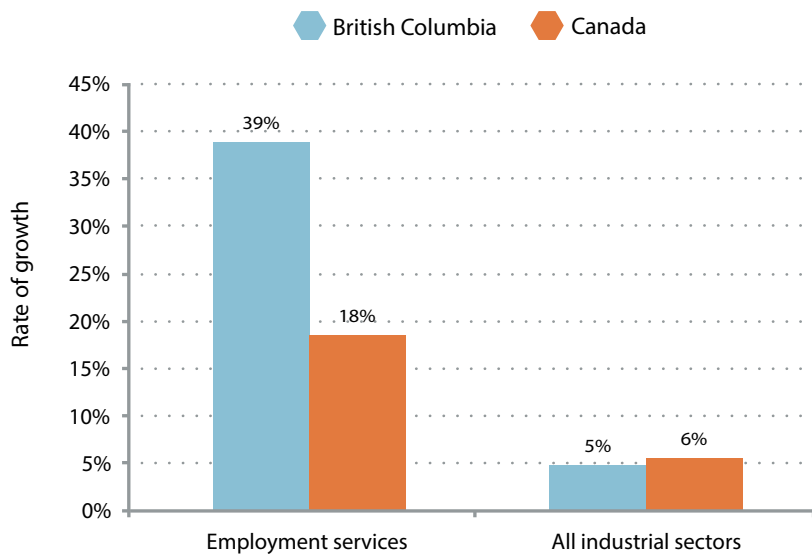
Source: Statistics Canada, CANSIM Table 281-0024.

Figure 5: Employment services job growth, 2004–2013



Source: Author's calculations from Statistics Canada, CANSIM Table 281-0024.

Figure 6: Employment services job growth, 2009–2013



Source: Author's calculations from Statistics Canada, CANSIM Table 281-0024.

CHARACTERISTICS OF TEMPORARY AGENCY WORKERS IN CANADA

Fuller and Vosko, in their 2008 study, provide the following demographic portrait of Canadian temporary agency workers (TAWs), derived from Statistics Canada's *Survey of Income and Labour Dynamics* (2004). Selected findings of this study are reproduced in Tables 1 and 2.²⁰

AGE: TAWs are largely younger workers (34 or younger), although nearly one-fifth are 55 or older.

SEX: More TAWs are women (55.5 per cent) than men (44.6 per cent).

EDUCATION: A plurality of TAWs have graduated high school (32.6 per cent), followed by non-university post-secondary certification (25.3 per cent), less than high school graduation (22.6 per cent) and, lastly, university degree or certificate (19.5 per cent).

INDUSTRIAL AND OCCUPATIONAL PLACEMENT

TAWs are placed in the following industries:²¹

- Management, administrative and other support (48.3 per cent)
- Manufacturing (17.7 per cent)
- Health care and social assistance (7.7 per cent)

TAWs are placed in the following occupations:²²

- Occupations unique to processing, manufacturing and utilities (43.0 per cent)
- Business, finance and administrative occupations (27.5 per cent)
- Trades, transport and equipment operators and related occupations (16.2 per cent)
- Sales and service occupations (7.9 per cent)

Table 1: Characteristics of temporary workers by type in Canada

	Seasonal	Contract	Casual	Agency	Permanent
SEX					
Male	58.5	44.6	39.9	44.6	52.1
Female	41.5	55.4	60.1	55.5	47.9
AGE					
24 or younger	43.5	35.6	55.7	23.8	13.5
25–34	16.8	28.4	12.0	35.5	24.1
45–54	14.2	12.2	10.4	12.1	24.4
55 or older	10.2	9.2	11.5	19.8	10.5
EDUCATION					
Less than high school graduation	26.7	10.8	24.2	22.6	12.9
Graduated high school	41.8	31.2	41.5	32.6	29.5
Non-university post-secondary certificate	24.6	26.5	24.3	25.3	34.4
University degree or certificate	6.9	31.5	10.1	19.5	23.2

Source: Statistics Canada, 2004 *Survey of Labour and Income Dynamics*, adapted from Fuller and Vosko 2008.

²⁰ Fuller and Vosko 2008.

²¹ Ibid, Table 1. Percentages do not add up to 100 per cent due to data suppression by Statistics Canada.

²² Ibid.

Table 2: Indicators of precariousness by type of employment in Canada

	Seasonal	Contract	Casual	Agency	Permanent
Hourly wage in dollars (medians)	10.75	13.42	9.5	11	17.55
Total yearly earnings from temporary job in dollars (medians)	10,428	11,480	6,044	7,850	31,360
UNION COVERAGE					
Yes	15.9	30.7	26.0	3.4	32.2
No	84.1	69.3	74.0	96.6	67.8
TENURE (MONTHS)					
4 or less	14.2	14.5	23.3	-	14.1
4–8	36.2	30.3	15.1	43.2	4.2
9–12	18.7	17.6	15.3	24.7	5.9
13–24	11.6	12.9	18.5	23.4	10.6
More than 24	19.3	24.8	27.8	-	65.3

Source: Statistics Canada, 2004 *Survey of Labour and Income Dynamics*, adapted from Fuller and Vosko 2008.

TEMPORARY AGENCY WORK IS A TYPE OF PRECARIOUS EMPLOYMENT

Temporary agency work can be characterized as a type of precarious employment. Drawing on two typologies of precarious employment,²³ this report uses the following five interrelated characteristics to demonstrate how temporary agency work is experienced as a type of precarious employment:

- limited duration and high risk of termination;
- lack of control over working conditions and the amount and pace of work;
- lack of protection in employment;
- low incomes (associated with poverty); and
- social location and social context.

Additionally, this report builds upon existing typologies by adding a sixth dimension of precarious employment: debt burden. Through interviews conducted for this research, debt emerged as an important part of the experiences of TAWs. Taking out loans and accumulating debt is a coping strategy to deal with the limited duration of employment, lack of control over the amount of work and low wages experienced by TAWs.

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²³ Rodgers 1989; Vosko and Clark 2009.

The accounts of temporary agency workers—documented in 22 in-depth interviews, supplemented with additional quantitative evidence—are organized around the six dimensions of precarious employment outlined above. There are clear limitations of the following qualitative data. The 22 interviews do not constitute a representative sample of TAWs in British Columbia and their experiences. Despite this limitation, these in-depth accounts corroborate more exhaustive studies conducted in Canada, the United States and Europe, and the findings of this study are suggestive of the general experiences of TAWs employed in the middle and low end of the employment services industry in British Columbia, specifically office and general (day-) labour assignments.

Limited duration and high risk of termination

TAWs often experience limited-duration employment with a high risk of termination. In Canada, the majority of temporary agency workers are employed from four to eight months (43.2 per cent), followed by nine to 12 months (24.7 per cent) and 13 to 24 months (23.4 per cent) (see Table 2). Consistently, TAWs interviewed spoke of assignments rarely lasting more than three months and ranging from a few days to a few weeks. Light industrial and general day-labour assignments commonly range in duration from four hours to a few days, but TAWs in clerical and service assignments also described many half and single-day assignments.

“I actually ran into a problem there because I did my job too well and too fast. So they started cutting my hours.”
(Julia, 28)

Some TAWs reported that agencies were diligent about ensuring fairly consistent full-time work, but others expressed frustration about the limited duration of assignments and constant risk of termination.

I did the job in four days. It wasn't a two-week assignment [as they had stated].... I guess they just calculated that a person would need two weeks to do it, but it really wasn't hard for me. I did it in like four days and she says to me, "You're overefficient, which is great, but you're so overefficient that now you got yourself out of a job because there's nothing left for me to give you." (Andrea, 51)

I actually ran into a problem there because I did my job too well and too fast. So they started cutting my hours. I was supposed to work eight hours and I'd finish my work in five hours. And then they said, "Well, with our regular employee who is away, she is unionized so she would get paid for eight hours no matter what. But unfortunately we [will] have to cut you." (Julia, 28)

Cheryl identified her general experience of limited duration employment. While TAWs may have an *indefinite* employment relationship with an employment agency, temporary agency work is characterized by periods of *active* and *inactive* employment, depending on whether workers are receiving assignment offers from the employment agency. In Cheryl's case, an assignment would begin with a short time horizon, followed by extensions. While this arrangement brings the possibility of more work, it also comes with the uncertainty and risk that the assignment may abruptly end or will not be extended.

Even with the five-month [assignment], it was initially for a period of four weeks, and then it got extended for three weeks, and then it got extended for four weeks, and then it might have gotten extended to the end of the year. It was never that you're working for this period of time. It's pretty un-nerving because you can't...it's difficult to make plans for anything that you might want to do. I'm also looking for full-time work so it's difficult for me to sometimes co-ordinate interviews.... (Cheryl, 35)

This dynamic leaves workers with little sovereignty over their time, and it poses particular challenges for those juggling family obligations. Although the initial short duration of employment may be extended, abrupt termination is standard industry practice. Temporary agency work is configured around the needs of the client firm and is outlined in the service contract between the employment agency and the client firm. TAWs also sign an employment agreement with the agency acknowledging that they understand that they are not eligible for notice of termination and severance because they may choose to accept or decline assignment offers. This “elect to work” exemption is outlined in Section 65 of the ESA.

Alex and Joseph, employment agency staff members, explicitly stated that this is a key advantage of the triangular employment relationship for client firms. Put simply, the ability to hire and fire at will, without any legal obligations, is identified as a key incentive for clients to use TAWs.

If someone's working a permanent job and it doesn't work out after six months, then the company has to deal with issues of severance and notice.... Whereas if it's temporary work for six months, they can just end it there and let them go. They save a ton of costs and at any time they can say, "I don't think this person is right. Can you send us someone else?" and get someone better there. I think that's one benefit that is underestimated. (Alex, employment agency staff)

I give my client the opportunity to end that contract at the end of the first week or at the end of three months with no severance, [no] termination legislation following up on them, no requirements as to paying them out, no benefit requirement whatsoever. (Joseph, employment agency staff)

Put simply, the ability to hire and fire at will, without any legal obligations, is identified as a key incentive for clients to use TAWs.

The majority of workers interviewed sought full-time, permanent (indefinite) employment. Individuals pursued temporary agency work as a last resort, contrary to industry rhetoric where temporary agency work is seen as a lifestyle choice. Interviewees valued job permanency and employer benefits associated with permanent employment, including professional development, employer-paid vocational training and supplemental health and dental coverage. Many TAWs expressed anxiety over their financial insecurity and inability to make important life plans—such as planning a family or purchasing a home.

The ability for TAWs to transition into permanent employment is constrained by the “buy-out” clause in the service contract, requiring the client to pay a fee to the agency if they wish to hire the TAW directly. George explained how it prevented him from accepting direct offers of employment.

...[T]hey'd want to hire you but because of the time limit that you had to sign to the agency, you couldn't, or they would have to pay some fee as well too. (George, 35)

The buy-out clause—written into both the employment agreement (between the agency and worker) and the service contract (between the agency and client)—constrains the labour market mobility of TAWs, discouraging the client from hiring TAWs permanently. Cheryl, for example, reported how the employment agreement also restricted her from accepting offers of permanent employment since it “would break some rule that I would have signed with the temp agency.” For this reason, the buy-out clause makes it difficult for TAWs to transition from limited-duration temporary agency work to indefinite-duration employment of a more standard nature.

Lack of control over working conditions

The experiences of TAWs interviewed in this study indicate that they have little or no control over working conditions. This lack of control workers experience is a function of the triangular employment relationship. When workers register with an employment agency, they waive their right to choose freely their direct employer and worksite. When workers sign an employment agreement with an agency, as employment scholar Leah Vosko notes, “they also generally forfeit their ability to select their preferred type of work; agencies not only assign workers to specific worksites but to particular locations within the occupational division of labour, often with limited regard to the skill set claimed by workers.”²⁴

LITTLE CONTROL OVER THE TOTAL AMOUNT AND SCHEDULING OF WORK

Overwhelmingly, temporary agency workers expressed frustration that they were receiving insufficient amounts of work. What differentiates the temporary/triangular employment relationship from the standard employment relationship is the lack of control over their direct worksite and employer. Client firms contract with employment agencies to supply workers. TAWs may accept or decline assignment offers. Because of this arrangement, TAWs have little control over the total amount and scheduling of assignments, which ultimately determines their total paid hours. There is no certainty or promise of work to the TAW, and they exercise their limited control by accepting or declining what is offered to them.

Michael and Dean, both 27, admitted that even when they were seeking work through several different agencies simultaneously, they were never able to come close to 40 hours of work a week. It is common practice for workers seeking construction and light industrial day-labour to start their day going from one agency hiring hall to the next until they get dispatched. Tom lamented that his life was structured around the needs of the agency—and he feared reprisals for declining assignments offered to him.

“Your whole life starts to revolve around them. If you say you can’t make it because you got something else, then they’ll black ball you for a while and won’t put you out.”
(Tom, 48)

Your whole life starts to revolve around them. If you say you can’t make it because you got something else, then they’ll black ball you for a while and won’t put you out. (Tom, 48)

Employment agency staff member Joseph admitted that the lack of steady employment creates uncertainty and financial insecurity for workers.

Once finished an assignment, there’s no guarantee that I’ll be able to find them something right away. It’s all up to my client. It’s their needs, their projects. So one of the disadvantages is we can’t offer steady employment at all times for all of our employees. I think it’s tough for them to pay their bills. One of the disadvantages with temp work is there’s no guarantee of steady employment. (Joseph, employment agency staff)

Alison turned to temporary agency work after being laid off from her full-time, permanent job in the 2008–2009 recession, but she never came close to receiving a sufficient number of assignments with enough hours. She also found it difficult to seek out other employment opportunities because she had to keep her schedule open in case the employment agency offered her an assignment. Some TAWs did seek additional employment to supplement their income. Echoing Alison’s concern, Cheryl described the challenge balancing the need to remain on call for possible assignments while also seeking additional income:

²⁴ Vosko 2010a:633-634.

Even if people want to seek out other employment, it can be very difficult because you can be waiting for a call from an agency or you need to be able to drop everything to take on an assignment that comes up. (Cheryl, 35)

For Alison, the employment agency provided only one- or two-day advance notice of assignments, sometimes notifying her the same day. Little or no control over the *scheduling of work*, compounded by an insufficient *amount of work*, made the situation very difficult. She recounts the high degree of variability in the amount of work she received.

Some months you'll have three or four shifts and some months you can get 10. The most you'll get is 10 shifts in a month. (Alison, 28)

The lack of control over scheduling of assignments was widely experienced by TAWs. In Rohit's experience in construction and general day-labour, there is an incredible amount of uncertainty and a "really tough" routine for those without a consistent assignment:

You do not know if you're going to get a job or be sent out. You don't have that steady flow of work that they've given you. Definitely it's hard scraping by on next to nothing, minimum wage, and not knowing if you're going to be able to work on the same day. You're up at 4 [a.m.], and you're not guaranteed to head out that day if you don't have a regular [assignment]. You could wait four to five hours [at the temp agency] and be sent home. It's kind of a catch-22 showing up there. You do what you have to do. It helps you out sometimes if you do get paid. (Rohit, 29)

*“Some months you'll have three or four shifts and some months you can get 10. The most you'll get is 10 shifts in a month.”
(Alison, 28)*

LITTLE CONTROL OVER THE TYPE AND PACE OF EMPLOYMENT

When individuals do secure an assignment, there is little or no control over the specific working conditions—the type and pace of work—at the client's workplace. For temporary day-labourers and office support workers in the lower end and middle of the ESI hierarchy, there is little knowledge about the particular working conditions that they will encounter at the assignment. The employment agency will provide a description of the work, and the TAW may accept or reject the assignment. TAWs rarely decline assignments because they need the work and note that there may be reprisals for declining assignments. This means that TAWs may find themselves in undesirable, incredibly strenuous, unpleasant and even unsafe assignments.

TAWs interviewed, especially men working in general day-labour, confirm that assignments were often the least desirable jobs, tasks that permanent employees did not perform.

It was just the shit work. [We would] come in, clean up, anything that anyone didn't want to do, or couldn't do. Just the grunt work, bottom line. (Rohit, 29)

You get all the dirtiest jobs that you can imagine...the meaningless, hard-labour jobs like digging and hauling cement. Basically they need someone to run up and down the stairs with materials because [there are] no elevators. They'll just hire [temp agency] guys. (Tom, 48)

If [the company has] some ugly digging jobs, and the company workers don't want to do it, they get the temp agencies to send the guys out. (Mike, 60)

Matt, a staff member at a day-labour employment agency, confirmed these accounts:

Most of it's the general labour, the end of it...the cleaning up...the grunt work...digging and all of that. That's most of our work. (Matt, employment agency staff)

While construction and day-labourers most often reported unpleasant working conditions, office and clerical TAWs also reported undesirable—and sometimes even hostile—environments, sometimes with questionable ergonomics. Roberta recounted a particularly unpleasant assignment where the employment agency appeared to have little knowledge of the working conditions at the client’s workplace.

...it was terrible. I was doing data entry in an extremely uncomfortable party chair, sitting at a wooden flip-out temporary table. I would get splinters if I slid my arms or hands on the desk, typing on a keyboard looking on a laptop for the screen. My neck was sore. I had to find boxes of papers to lift the screen up to eye level. I was left alone all day without anyone to answer my questions.... The girl training me didn’t want me there. They had computer problems for three days in a row. I did nothing for three days. I phoned [the employment agency] and I said this is ridiculous. (Roberta, 45)

While construction and day-labourers most often reported unpleasant working conditions, office and clerical TAWs also reported undesirable—and sometimes even hostile—environments, sometimes with questionable ergonomics.

More broadly, this dimension of precarious employment—little or no control over working conditions—is expressed in the great variability of assignment locations and the burden of transportation for the TAWs. Many lamented that their ability to accept assignments required a willingness to travel across the Lower Mainland at considerable personal cost.

That’s a big problem for me. The best jobs...always [require] travelling. It’s usually two or three zones now.... Now they just raised all those [public transit] rates. So now I only look for stuff that’s close. I don’t even bother with two or three zones. It’s just getting too ridiculous, too expensive. (Bill, 50)

The one thing I noticed that was a problem for me was travel time. If I’m sitting in their office for x amount of hours and they say, “It’s noon right now. You’re going out to this location.” If it takes me another hour to get to that location, and I’m not being paid for that time...I think...you should be paid for your travel time. (George, 35)

A former Employment Standards Branch staff member noted that this was one of the common Employment Standards Act violations they encountered with employment agencies. As employees of the employment agencies, TAWs, especially day-labourers, are entitled to be paid from the moment they are dispatched. Travel time and transportation costs matter a great deal, especially when hourly wages are low.

Lack of protection in employment

The third dimension of precarious employment is the lack of protection in employment—the extent to which workers are protected individually or collectively, either by legislation or collective agreements. In BC, employment agencies are regulated by the Employment Standards Act and Regulation. The ESA sets out basic labour rights on matters such as minimum wage, hours, overtime and holiday pay, etc. As discussed in Part 1, sections of the Employment Standards Act and Regulation set out specific provisions for the regulation of employment agencies. Employment protection also comes in the form of union representation and collective agreements. TAWs have very low trade-union representation through collective agreements. Across Canada, only 3.4 per cent of TAWs have union coverage, so collectively these workers lack representation (see Table 2).

THE 2002 BC REFORMS AND THE LABOUR MARKET REGULATORY CONTEXT

Before examining this dimension of precarious employment and the experiences of TAWs, an overview of important changes to the ESA is provided. These changes are relevant to understanding the broader BC labour market regulatory context.

Starting in 2002, the BC government made a number of far-reaching changes to the ESA and the Employment Standards Branch, the government agency responsible for enforcement of the ESA. The following are among key changes made to the ESA:

- Workers with a complaint (meaning, workers who feel their rights under the ESA have been violated) must use a nine-page online form to create a package to deliver to their employer or former employer regarding their claim and must attempt to resolve their claim with the employer before the ESB will accept their complaint.
- The minimum daily shift was reduced from four hours to two hours.
- The previously required 24-hour notice of a shift change was eliminated.

Changes at the ESB included the following:

- 33 per cent reduction in ESB staff, 47 per cent reduction in enforcement officer staff and the closure of 50 per cent of the offices;²⁵
- A shift from investigating complaints to mediating wage-related disputes, where many complaints are “settled” at the mediation stage and many complaints that advance from mediation to adjudication are resolved at adjudication before a decision is made;²⁶
- Putting the burden of proving wage claims on complainants; and
- Providing no support or assistance to complainants.

These changes to the ESA and ESB are indicative of the attempt to deregulate BC’s labour market. According to a former ESB staff member, the cuts significantly diminish the employment standards enforcement regime and the important regulatory function of the ESB, especially when it comes to protecting vulnerable workers.

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INADEQUATE LEGAL REGULATION OF EMPLOYMENT AGENCIES

In BC, the regulation of employment agencies and the temporary/triangular employment relationship is inadequate. This section focuses specifically on the legal regulation of employment agencies through licensing as well ESA violations experienced by TAWs.

As outlined in Part 1, employment agencies must apply for a licence from the ESB and renew the licence every year for \$100. Employment agency operators are required to pass a simple test to demonstrate that they understand the legislation relevant to employment agencies and that they plan to operate in compliance. If agencies are operating without a licence, the ESB is responsible for levying fines against violators in accordance with the ESA. Employment agencies operating with a valid licence are listed in the ESB’s public registry, available online.

Yet a simple investigation conducted for this research demonstrates that numerous employment agencies operate unlicensed, revealing fairly widespread lack of compliance with the ESA.

²⁵ Fairey 2005; MacPhail and Bowles 2008.

²⁶ This shift in the ESB’s approach to enforcement was confirmed by former ESB staff.

Cross-checking employment agencies in the 2013–2014 Lower Mainland Yellow Pages classified with the ESB’s public registry of licensed employment agencies²⁷ revealed that approximately 84 of the 127 employment agencies listed in the phone book are not licensed according to the public registry as of April 2014. Put another way, an estimated 66 per cent of Lower Mainland employment agencies are not licensed and are in contravention of the ESA. Furthermore, according to documents obtained via a Freedom of Information request, five employment agencies of the 84 unlicensed agencies had a previous contravention for operating unlicensed.²⁸

TAWs interviewed experienced other ESA violations, but they felt constrained and unable to assert their rights.

Notably, none of the TAWs interviewed used the “self-help” dispute resolution process to address rights violations. Because they feared reprisal and needed assignments, TAWs felt unable to address or complain about employment standards issues.

Poor compliance with—and enforcement of—employment agency licensing requirements puts workers at risk. Although licensing is a minimal regulatory requirement, it is nonetheless important to protect TAWs from unscrupulous operators. But a licensing requirement provides little protection to workers unless it is adequately enforced. As a result of employment agencies operating without a licence, workers may unknowingly enter into an employment relationship with an unlicensed agency. One of the research participants, a young homeless man, believed he had worked for a legitimate—and licensed—employment agency. According to Tyler’s experience, a man pulled up in a vehicle outside a shelter asking homeless people to work for his agency. The agency he identified has no public record and is not listed in the public registry. Tyler recounted his experience:

He would give me money before my payday and he would deduct more off my paycheck. I didn’t like working with that guy. I worked with him for like two months. I was paid biweekly by cheque and he would advance me like \$20 and on my cheque it would say advance \$50 sometimes. So he was ripping me off really bad. Probably [stole] about \$150 in three weeks of work. (Tyler, 20)

This example illustrates the broader implications of attempting to deregulate the labour market through changes to the ESA. And while compliance of “fly-by-night” employment agencies can be difficult to enforce, employment agencies clearly operating without a licence—as illustrated by this simple phone-book investigation—could be easily brought into compliance by the ESB. In theory, workers should be able to refer to the registry of licensed agencies to see if an agency is operating in accordance with the ESA.

TAWs interviewed experienced other ESA violations, but they felt constrained and unable to assert their rights. They reported agencies promising work and then requesting that workers make themselves immediately available or come in to the agency office. For many, this came as a great, and potentially costly, inconvenience because workers would need to leave other employment or obligations, only to find that the assignment had already been filled or did not exist.

I was at a position [assignment] that was ending and they called me and said you must come in, we have something for you starting immediately...and so I rushed over and left my other job. And they’re like, “Well, we don’t have anything for you. That job was filled.” That’s just typical of what always happens. They say you must rush in and then it [is] filled. (Roberta, 45)

27 Yellow Pages 2014. Employment agencies from the following classified sections are used in this calculation: Employment Agencies, Employment Contractors—Temporary Help, Employment Services. Multiple listings of the same employment agency are only counted once. The April 24, 2014 version of ESB’s public registry of licensed employment agencies is used.

28 This was discovered by cross-checking a list of agencies with ESA contraventions from 2003 to 2013 (obtained through FOI request). The FOI request is available at <http://www.openinfo.gov.bc.ca/ibc/search/detail.page?config=ibc&P110=recorduid:4811440&title=FOI%20Request%20-%20LBR-2013-00031>.

Section 8 of the ESA states that “[a]n employer must not induce, influence or persuade a person to become an employee, or to work or to be available for work, by misrepresenting any of the following: the availability of a position; the type of work; the wages; the conditions of employment.”

In addition to having work falsely represented, several interviewees identified other ESA violations, including attendance at unpaid training sessions as a condition of employment.

Notably, none of the TAWs interviewed used the “self-help” dispute resolution process to address rights violations. Because they feared reprisal and needed assignments, TAWs felt unable to address or complain about employment standards issues. Those that did experience violations often coped with the situation by either finding work through a different employment agency or seeking out more standard forms of employment and trying to avoid employment agencies entirely.

Former Employment Standards Branch staff explain that the inadequate regulation of employment agencies through existing legislation arises, in part, as a result of the 2002 changes to the ESA and ESB, funding cuts to the ESA’s enforcement and the introduction of employee self-help and a dispute resolution approach to enforcement.

Low incomes

Low-income jobs are a fourth dimension of precarious employment. Employment may be precarious if it is associated with poverty.²⁹ For most people, paid employment is the primary source of income. TAWs generally have low wages and incomes, confirmed by statistical evidence and interviews. As Table 2 shows, the median hourly wage for TAWs across Canada was \$11/hour in 2004, ahead of temporary casual (\$9.50) and temporary seasonal employees (\$10.75) but below temporary contract (\$13.42) and permanent employees (\$17.55); total yearly median income for TAWs was \$7,850 compared to \$31,360 for permanent employees. This demonstrates a significant earnings gap between TAWs and permanent employees.

In interviews, TAWs universally reported low incomes and described living in poverty as a result of low hourly wages at or a few dollars above the minimum wage.

It’s very difficult [to sustain yourself on temporary agency work]. You’re working next to minimum wage. (Rohit, 29)

You see the government, they give themselves lovely raises and for us, the ones who keep them going, they haven’t given us any raises.... That kind of discourages me from actually going out. Anything below \$15/hour, you’re below the poverty level in this city anyway. It’s totally ridiculous. (Bill, 50)

I’m never financially okay. I was behind on my rent. So I’m kind of playing catch up. I don’t have any sort of a financial cushion and I should, especially having a child. I’ve applied for a rental assistance program, so they pay a portion of your rent. It’s designed for working people that are still low income. That will help big time.... I don’t really know how I do it, just scrape it together. It is stressful for sure being a single parent and not having any money. (Sandra, 41)

Some TAWs expressed frustration over their low wages in relation to the bill rate of the employment agency. The bill rate is the amount charged to the client, which includes the TAWs wage, and the agency’s operating expenses and profit.

“It’s pretty difficult to sustain yourself because of the pay. [The employment agencies] take quite a large portion of what the [client] pays to the temp agency.” (Cecilia, 43)

²⁹ Rodgers 1989:3.

I was in charge of the mail [at the client firm]. I saw a piece of mail from this placement agency and I saw basically what they [the agency] was getting paid I saw that I was being paid like \$10/hour and it was actually a \$20/hour [bill rate]... (Andrea, 51)

It's pretty difficult to sustain yourself because of the pay. [The employment agencies] take quite a large portion of what the [client] pays to the temp agency. (Cecilia, 43)

The importance of social location and social context

The intersecting social locations of sex, age, race, immigrant status and class shape the experience of temporary agency workers. Statistics and interviews suggest that women are more likely to turn to temporary agency work, despite the insecurity, in the absence of permanent employment. Women also expressed frustration over the internal segmentation of temporary agency work by sex.³⁰

Julia pursued temporary agency work because she was unable to find a permanent job. She described the challenge of finding decent employment.

It's getting better I think, but it's difficult to find good jobs that pay well. I hate to gender this but I think especially if you're a woman. (Julia, 28)

As a result, she pursued temporary agency work, but she found it to be too unreliable with an insufficient amount of work:

It's not consistent enough. I have been told by people at the agency that some temp workers have found consistent work and that they are working every day—and that it's a sustainable thing. But at the time I was there, it just wasn't sustainable. There wasn't enough work. (Julia, 28)

Similarly, Cassandra and Janet both struggled to find permanent employment, and they turned to temporary agency work. But as TAWs, they both felt that the sex segregation of temporary agency work prevented them from obtaining higher-skilled and better-paid assignments. Despite her experience and university bachelor's degree, Cassandra felt confined to clerical work.

A lot of it [temporary agency work] is low-skill, so I was doing a lot of reception work and now I [would] do pretty much anything to not do reception work. (Cassandra, 44)

At the time of the interview, Janet, of Asian-Canadian heritage, was searching for permanent construction employment. She lamented the fact that she could not even secure skilled and better-paying temporary agency work in construction despite her qualifications and multiple years of experience.

I did try to go to one of those [construction and day-labour agencies]. They only take guys, they don't take women.... I just waited until I was the very last person. (Janet, 42)

More than half of TAWs are women (Table 1), and sex and age importantly shape employment experiences. Andrea has worked through employment agencies through much of her adult life. As a result, she has many gaps in employment and feels that many potential employers view this negatively, making it difficult to secure permanent employment. Visibly frustrated, she admitted that it is increasingly difficult for her to even receive assignments through employment agencies:

³⁰ See Vosko 2000:187-190.

The intersecting social locations of sex, age, race, immigrant status and class shape the experience of temporary agency workers. Women also expressed frustration over the internal segmentation of temporary agency work by sex.

I do notice that even though I've got excellent skills and even though I surpassed the tests, there was a lull. Nobody called me for six months. I was trying other agencies and all the other agencies didn't have anything either for me.... I do find a lot of...those kind of placement agencies are very young-biased...they tend to pick young people to go out on assignments.
(Andrea, 51)

Contrary to industry rhetoric, temporary agency work did not lead to full-time, permanent work for many of those interviewed, and some women felt that it actually made it more difficult to obtain permanent employment after a long period of temporary agency work. Ananya, a visible-minority woman with post-secondary education, searching for full-time, permanent work for the past two years, spoke of temporary agency work as a “trap,” since it provides employment and income if no other work is available, but the longer you work as a temp, the harder it becomes to secure permanent employment.

[I have] a lot of disappointment that things are not getting better, and the more you're in it, the more it hurts you. I thought I would get consistent work by now, and it hasn't happened.
(Ananya, 31)

Moreover, this study corroborates more exhaustive studies, which find that race and citizenship status significantly shape the experience of workers. Approximately 33 per cent of new immigrants, upon arrival to Canada, seek entry into the labour market through employment agencies.³¹ When Lauren, a 45-year-old immigrant from China, arrived in Vancouver she could not find skilled work in her field of computer electronics. She depended on temporary agency work after an unsuccessful job search. Once under supervision at the client's workplace, she realized that she was not being paid the hourly wage that had been promised. When she followed up with the agency, they denied promising the higher—initial—wage. Section 8 of the ESA prohibits false representation of wages by employers. Although Lauren contacted the Employment Standards Branch, “They said unless you have the paper in your hand...that contract in other words...there's nothing we can do. So that's pretty bad.” Due to the nature of the temporary/triangular employment relationship and hourly wages that change for each assignment, it is important for TAWs to have written information provided about each assignment.

Lauren also spoke of another experience where the assignment supervisor (the client) was verbally abusive and arbitrarily dismissed her despite the fact that the agency is the employer of record. As a new immigrant and employee in BC, Lauren felt she had little assistance, especially from the ESB, which she did not find helpful. She lamented: “I'm an easier one to be ripped off because I was new.”

Younger workers interviewed identified temporary agency work as employment of last resort. Ananya expressed her frustration in securing permanent—and even temporary agency—employment:

Luckily, my mom had a decent government job and I guess technically we were middle class, and now I can't even match that. I'm 31 and I'm not anywhere near that. I'm half of where she was. It's really scary and disappointing. It's not an effort thing—I want to work. Where are the jobs? It's really upsetting. (Ananya, 31)

Rather than facilitating the movement out of poverty, temporary agency work reproduces poverty and very low wages, according to TAWs interviewed. This is evident for TAWs employed

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(Ananya, 31)

31 Statistics Canada 2005.

by agencies in the middle and low end of the employment services industry hierarchy in office support and general day-labour.

According to the experiences of several low-income Downtown Eastside residents, inadequate disability rates require additional income to cover basic living expenses. Interviews with low-income Downtown Eastside residents and day-labour employment agency staff suggest that the bottom end of the employment services industry—day-labour employment agencies—benefits from low income assistance rates. Frozen income assistance rates ensure that day-labour agencies have a consistent supply of marginalized groups seeking out work, however precarious, in order to survive. The literal “crowding” at the day-labour agency means that wages do not increase.³² Tom, a low-income Downtown Eastside resident, summarized his experience in relation to provincial policies that necessitate marginalized groups to seek out precarious temporary agency work:

TAWs reported debt to be a mechanism for survival due to the uncertainty and financial insecurity associated with temporary agency work.

There's a big rush of people coming in, there are lots and lots. Now, they are showing up at these temp agencies. There's a 65-year-old man who was there that just started up. He needs work. Doesn't care about slinging a shovel.... [Y]ou got these kids coming down there... and then you've got all these landed immigrants looking for work.... You're just going to be fighting to make 10 bucks an hour. Why do you think those [wage] rates don't go up? Because everyone is fighting for work. And then you got to remember another thing, these temp agencies they cater more to people who are living in shelters. Because, right now, with the way the government is set up with income assistance, when you're denied income assistance or you have to wait three weeks before you get any sort of money, you're sleeping in shelters. And with the housing situation now, it's gotten so bad people can't even get a roof over [their] head. (Tom, 48)

Debt burden

Lastly, debt marks the experiences of TAWs, yet another indication that this constitutes a form of precarious employment. Taking out loans and accumulating debt is a coping strategy to deal with all the realities noted above. The limited duration of employment, the periods of time between assignments when TAWs are not earning an income, the lack of control over the amount of work and the low wages all compound to necessitate that TAWs take out loans or incur credit-card debt. Social location and social context also matter. Low-income and racialized groups may be more likely to obtain loans from very high-interest fringe banking institutions—payday loan brokers—because of their personal financial insecurity and exclusion, due to income or credit, from formal financial institutions.

TAWs reported debt to be a mechanism for survival due to the uncertainty and financial insecurity associated with temporary agency work:

Absolutely [I have debt]. I'm not comfortable saying the number.... Like I said, I went through my savings, depended on credit. (Ananya, 31)

I believe my credit cards got a little more stacked because I was in between jobs and working for next to minimum wage. [I did not take out]...loans or anything like that. I knew that was a black hole. At times I had to cash a cheque at places here and there. (Rohit, 29)

I ended up taking some payday loans, some Moneymart, Cash Store. So I am in debt, like \$600. (Tyler, 20)

³² Peck and Theodore 2001.

If I had any money in the bank, I would have used it up and I had run up my credit cards a bit. It [temporary agency work] wasn't steady, it wasn't predictable. (Cassandra, 43)

I definitely extended the credit cards during those times and put myself in debt a little bit more. (George, 35)

While debt is certainly not unique to the experience of temporary agency workers, it emerged as an important dimension to the experiences of workers interviewed in this study. This report builds upon existing typologies by adding debt burden as a new dimension of precarious employment.

Conclusions and policy recommendations

Current public policies do not adequately address the rise in temporary and precarious employment generally, nor do they sufficiently speak to the realities of temporary agency work specifically.

I would say if you can avoid a temp agency, avoid it. But at the same time, if you need that extra cash, one day or another, then I can't really say don't pursue it. It's whether you are in a situation where you don't have to go to a temp agency. If you have to, then you have to. (Kyle, 25)

One of the key things to emphasize to workers is that they still have rights under the labour legislation, and regardless of what the agency or employer might tell them. Those don't go away. They may [be modified], but they don't go away. The flip side to that of course is that if you're desperate enough, you'll do anything. (Cassandra, 43)

...because of Revenue Canada and...employment standards around temporary labour, the [client firms] themselves want us [the employment agencies] there because they want to be one step removed from the government and the tax people and the employment standards people. (Employment services industry interviewee)

TEMPORARY EMPLOYMENT IS ON THE RISE in British Columbia, and there are significant implications for the economic well-being of working people in the province. Current public policies do not adequately address the rise in temporary and precarious employment generally, nor do they sufficiently speak to the realities of temporary agency work specifically. While permanent employment remains more prevalent in BC, temporary jobs account for a growing share of new jobs, indicative of a broader labour market transformation. And within this context, new attention must be directed towards the employment services industry and labour market intermediaries, such as employment agencies. As one employment industry employee noted, temporary employment, including temporary agency work, is a key part of the labour market transformation under way.

What we see now is that the entire economy is making less investment in permanent staff for all those reasons that I mentioned— risk, investment [and] the ability to just get rid of the person and not have to deal with employment standards.... (Employment services industry interviewee)

Temporary agency work is a form of precarious employment. Using in-depth interviews and statistical evidence, this study organized the experiences of temporary agency workers around six interrelated dimensions of precarious employment:

- limited duration or a high risk of termination;
- lack of control over working conditions, the amount and pace of work;
- lack of protection in employment (individual and collective);
- low incomes, associated with poverty;
- social location and social context; and
- debt burden.

In order to reduce the precarious nature of temporary agency work and to enhance the economic security of these workers, this report recommends that BC adopt regulatory approaches similar to those used in Ontario, France and the European Union.³³ Provided below are policy recommendations to reduce the precarious nature of temporary agency work by strengthening the Employment Standards Act, boosting the enforcement regime and increasing the minimum wage.

Restore the Employment Standards Branch and enforcement regime

The Employment Standards Branch enforcement capacities should not only be restored to pre-2002 level but also increased to account for provincial job growth. The ESB's enforcement capacity must meet the realities of a changing labour market and employment relations, particularly the rise in precarious forms of employment. The 2002 cuts to the ESB have weakened BC's employment standards enforcement regime, putting vulnerable workers unnecessarily at risk. The ESB dispute resolution approach is not adequate to enforce minimum employment standards intended to protect workers. Through active enforcement and regular audits of the employment services industry, the ESB must ensure that employment agencies are in compliance with the Employment Standards Act.

Ensure employment agency licensing compliance— a minimum legal protection for workers

The licensing of employment agencies provides a minimum protection for workers. In theory, workers can refer to the registry of licensed agencies to see if an agency is compliant with the ESA. The ESB must fulfill its legal obligation by maintaining an accurate public registry of employment agencies. Licensing renewal processing should be modernized by instituting automatic renewals and penalties for non-compliance. Penalties ranging from \$500 to \$10,000 should be instituted for client firms that use unlicensed employment agencies, similar to existing penalties for clients

Through active enforcement and regular audits of the employment services industry, the ESB must ensure that employment agencies are in compliance with the Employment Standards Act.

³³ See Vigneau 2001–2002; Workers' Action Centre and Parkdale Community Legal Services 2009; Vosko 2010a, 2010b.

contracting unlicensed farm labour contractors. This measure is intended to foster employment agency compliance and discourage client firms from using employment agencies operating in contravention of the ESA.

Eliminate “self-help” employment standards enforcement

Eliminate the “self-help kit” and ensure direct access to the Employment Standards Branch, particularly for vulnerable workers. The “self-help kit” is an inappropriate form of enforcement considering today’s labour market realities and the challenge temporary agency workers reported in asserting their rights.

Adopt the principle of equal treatment

The ESA should ensure equal treatment for TAWs, including pay, statutory and employer-sponsored benefits and working conditions.

The nature of the triangular employment relationship and the dimensions of precarious employment outlined in this report demonstrate how temporary agency workers do not receive equal treatment in the workplace compared to permanent employees. The ESA should ensure equal treatment for TAWs, including pay, statutory and employer-sponsored benefits and working conditions. Client firms must not use TAWs to reduce costs nor deny equal treatment of workers performing work comparable to that of permanent workers. The principle of equal treatment can help TAWs assert their right to fairness and equality in the workplace and can reduce the precariousness and second-class status TAWs encounter in the workplace.

Provide information about the agency

Employment agencies should be required to provide all TAWs they employ with the legal and operating names of the agency and contact information, as soon as they register and sign an employment agreement with an agency. TAWs need to be provided with this basic information, which may be verified with the ESB public registry of licensed employment agencies. This requirement would help protect workers from “fly-by-night” operators and provide greater clarity to workers engaged in temporary agency work.

Provide information about employment standards for temporary agency work

Due to the triangular employment relationship, agency and client responsibilities are often unclear to workers. When an employment relationship commences, agencies should be required to provide workers with ESB information summarizing the rights and responsibilities of employment agencies, client firms and workers under the ESA. This information should be available in the worker’s chosen language if possible.

Provide information about each client and assignment

When employment agencies offer assignments, they should provide an information document, in writing, setting out the legal name(s) of the client firm, contact information, hourly or other wage rates or commissions, hours of work, a general description of the work to be performed and working conditions, and the pay period and payday established by the agency. The start date and expected end date of the assignment must be included. The client firm should date and sign the information document and provide a signed copy to both the worker and the agency. This

information requirement is important for two reasons. First, TAWs should have the ability to plan their working lives, similar to employees in more standard forms of employment. Second, this information document is essential for a robust employment standards enforcement strategy. If rights are violated, workers will need this information to pursue redress.

Remove the “elect to work” exemption for notice of termination and severance pay

The BC government should eliminate the “elect to work” exemption for termination and severance in section 65 of the ESA. Employment agencies must not avoid termination and severance responsibilities to employees. Employment agencies, as employers, are responsible for workers from the point when they register with an agency to the termination of the employment relationship, including periods of active and inactive employment. Section 65 of the ESA exempts workers who “elect to work” by accepting or rejecting assignments, as well as other fixed-term and contract workers employed and placed by employment agencies. This exemption is directly related to numerous dimensions of precarious employment: limited duration of employment, high risk of termination, limited control over the amount of work and lack of individual protection through legislation.

The ESI identifies the ability to end a worker’s assignment without notice of termination and severance as a major incentive for clients to use TAWs. This practice significantly places a high degree of employment and income insecurity on workers, making this routine industry practice a key factor contributing to the precarious nature of this form of employment. This measure will ensure that employment agencies, as employers, are responsible for the costs of minimum employment standards, rather than downloading financial and time insecurities onto workers. Although the industry may claim that it will reduce the viability of their business, it is a well-established practice in many European countries with stronger regulatory frameworks. Costs of statutory obligations may be passed down to clients in the form of a higher markup across the employment services industry, ensuring that all employment agencies have the same statutory obligations to workers. In this way, the changes to the ESA would reduce the precariousness of TAWs by ensuring they receive equal treatment under the law for termination and severance.

This measure will ensure that employment agencies, as employers, are responsible for the costs of minimum employment standards, rather than downloading financial and time insecurities onto workers.

Establish certainty in length of assignments

The BC government should require employment agencies to establish certainty in the length of temporary assignments by amending the ESA. If an assignment prematurely ends and the estimated length of the assignment is made void (based on the date provided to the worker on the information document), the agency should be obligated to offer a new assignment at the same remuneration, within three working days, that will last as long as the previous one. If no assignment is offered, the agency should compensate the worker for lost pay in the amount the worker would have earned had the assignment lasted through to its expected end date. By establishing certainty in the length of assignments, precariousness may be significantly reduced.

Encourage the transition from temporary to permanent employment

In order to encourage the transition from temporary agency work into permanent employment, the BC government should prohibit “buy-out clauses” in service contracts between employment agencies and client firms, which discourage clients from directly hiring temporary agency

workers through prohibitive fees. Additionally, clauses in the employment agreement between the agency and the worker that restrict the worker's labour market mobility should be prohibited. This practice restricts the labour market mobility of TAWs. Employers should be encouraged to offer temporary agency workers permanent and indefinite positions.

Protect TAWs from client reprisals

Employers should be encouraged to offer temporary agency workers permanent and indefinite positions.

Since client firms control much of the work process (including hours, type and pace of work and length and termination of the assignment), TAWs should be protected from client reprisals when attempting to assert their employment rights. Currently, Section 83 of the ESA protects employees from employer reprisals (meaning, from the employment agency), but this does not explicitly extend to third-party client firms involved in triangular employment relationships and persons acting on behalf of an employer.

Extending this protection would mean that, as is the case in Ontario, client firms would be prohibited from intimidating TAWs, refusing to have a TAW perform work, terminating the assignment or otherwise penalizing or threatening the TAW for:

- asking the client firm or employment agency to comply with the ESA;
- making inquiries about his or her rights;
- filing a complaint with the ESB;
- exercising or attempting to exercise his or her rights;
- giving information to an ESB officer; or
- testifying or otherwise participating in a proceeding under the ESA, such as a hearing.

In the triangular employment relationship, TAWs struggle to assert their rights, especially if the ESA does not recognize the significant role of third-party clients in temporary agency work. Importantly, TAWs would still retain reprisal protection from the employer (the employment agency).

Increase the minimum wage

The BC government should increase the minimum wage in order to reduce the precariousness of temporary agency work. According to statistical evidence and interviews conducted for this report, TAWs have low wages and incomes, consigning many to poverty. Food, transportation and housing—basic necessities—were difficult to afford for many of the workers interviewed. Some found themselves in unstable, unsafe or substandard housing situations, including single-room occupancy hotels and couch-surfing. Raising the minimum wage can lift working people out of poverty and reduce the precarious nature of temporary agency work. Keeping people in poverty is a costly and unnecessary policy choice.³⁴ Most importantly, we all benefit from increasing the wages of lower-income British Columbians, increasing economic activity and providing a boost to local economies.

³⁴ Ivanova 2011.

Collect better statistical data

One of the major challenges of researching temporary agency work—and the employment services industry generally—is the lack of statistical data available to researchers. Statistics Canada’s *Survey of Work Arrangements* (1996) provides a detailed portrait of non-standard and temporary agency work in Canada, but this survey is now inactive.³⁵ Existing statistical data (such as the growth of the employment services industry), academic studies and media accounts demonstrate the need for reliable and frequent surveys of various types of temporary employment. These statistical surveys are necessary for policymakers to effectively address the labour market transformation under way. Importantly, surveys should account for provincial and metropolitan area variation and the different forms of non-standard employment.

We all benefit from increasing the wages of lower-income British Columbians, increasing economic activity and providing a boost to local economies.

³⁵ Statistics Canada 1996.

Profile of temporary agency workers interviewed and recruitment method

Twenty-two temporary agency workers (14 women and eight men) were interviewed for this study between 2012 and 2013. The average age was 40 years old. Twelve of the participants had a post-secondary diploma or university degree, four had some post-secondary, three had a high school diploma and three did not have a high school diploma. Fourteen participants were white, six were visible minorities, and two were First Nations.

Due to the nature of temporary agency work and the challenges with recruiting participants who do not have a fixed work location, participants were recruited through an online Craigslist posting for the Vancouver area. The posting was placed for approximately two weeks and generated many responses. Participants were provided an honorarium of \$15 for a 20–45 minute semi-structured interview. Audio-recorded interviews were transcribed, coded and analyzed. Recurring themes and experiences were drawn from the interviews and provided much of the qualitative evidence in Part 2.

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