Independent Workers and the Changing Workplace

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Introduction

Independent workers — those who work on a temporary basis for an organization or individual without becoming an employee — make up about a third of the US workforce; that number is expected to reach 40 percent by 2020. Recent graduates and retirees, laid-off workers, low-wage workers and the long-term unemployed (estimated at 3.7 million people) are going into business for themselves or are becoming "discouraged workers" due to the shrinking pool of regular full-time work. Or they take on short-term jobs while they look for something more permanent. By choice or circumstance, "independence" is a daily hustle to make ends meet with gigs, consultancies, stints and small jobs that fit together like a jigsaw puzzle. According to Thomas L. Friedman, these workers are "buoying our economy from below," and the media hails them as self-determined risk-takers. Whether they make $100,000 a year or struggle to reach $25,000, call themselves freelancers, contractors, solopreneurs or microbusiness owners, they are moving through the same uncertain waters.

This primer is part of Re:Gender's series on precarity — the economic insecurity that comes when work is uncertain, inconsistent and unable to offer a livable wage. The focus is on the independent workforce for two reasons. First, looking at these workers and their circumstances highlights that precarity applies to people across class and should not be considered solely a "poverty issue." Second, the primer looks into the connection between US economists' concernsabout middle-class job loss leading to greater economic instability and inequality and the fact that many of those leaving middle-class full-time work are showing up in the independent workforce. Are they empowered workers, liberated from standard workweeks and enjoying work/life balance? New drones in the "gig economy"? The "force that could save the American worker"? Are they leading the way to the New Industrial Revolution? Are they really "the future" or just another version of yesterday's pieceworkers? These questions will be put into the context of economic trends, business decisions and the evolving relationship between worker and workplace.

What is an independent worker?

The Government Accountability Office (GAO) published the last nationwide survey of independent or contingent workers back in 2006, estimating at the time that about one-in-three workers, then 42.6 million workers, was contingent. The report defined the type of work as "work arrangements that are not long-term, year-round, full-time employment with a single employer." The categories of workers included under that definition are standard part-time workers (43 percent), independent contractors (24 percent), self-employed workers (14 percent), direct-hire temps (7 percent), on-call/day laborers (6 percent), agency temps (3 percent) and contract company workers (2 percent).[1] The short glossary below describes each category.

Glossary of Independent Workers

Agency temporary workers (temps): Individuals who are "assigned by the agencies to work for other companies ("client firms"), such as temporary workers supplied to companies to fill in for full-time workers who are on vacation or to work on special projects."

Contingent worker: GAO defines contingent work as "work arrangements that are not long-term, year-round, full-time employment with a single employer" and identified eight categories of contingent workers: agency temporary workers (temps), contract company workers, day laborers, direct-hire temps, independent contractors, on-call workers, self-employed workers and standard part-time workers. The term is interchangeable with "independent" worker.

Contract company workers: Individuals who work for companies that provide services to other companies under contract (e.g., security, landscaping or computer programming services).

Day laborers: Individuals who obtain work by waiting at a place where employers pick up people to work for the day (e.g., agricultural or construction workers).

Direct-hire temps: Individuals who are directly hired by companies to work for a specified period of time as temporary workers (e.g., seasonal workers and workers hired to perform special projects).

Employee: The IRS states that "anyone who performs service for you is your employee if you can control what will be done and how it will be done," and employers have "the right to control the details of how the services are performed." Employers are required to: "withhold federal, state, and local income taxes; pay half of the tax mandated under the Federal Insurance Contributions Act (for Social Security and Medicare); pay the full tax required under the Federal Unemployment Tax Act and any state unemployment insurance tax laws; pay for workers' compensation; file a number of returns during the course of the year with the various tax authorities; and provide W-2s by January 31," according to Paychex. Employees may have access to work-based benefits such as health insurance, pension plans and paid leave.

Independent Contractors: According to the IRS, a person is an independent contractor "if the [tax] payer has the right to control or direct only the result of the work and not what will be done and how it will be done. The earnings of a person who is working as an independent contractor are subject to Self-Employment Tax." GAO defines independent contractors as: "Individuals who obtain customers on their own to provide a product or service (and who may have other employees working for them)." Paychex notes that this group, commonly known as consultants and freelancers, are hired to performparticular tasks and are paid after the work is completed. In most cases, the 1099-MISC is the only tax form that employers of independent contractors file at the end of the year.

On-call workers: Individuals who are hired on an "as-needed basis" (e.g., substitute teachers or construction workers hired by union hiring halls). They can be scheduled to work for several days to weeks, according to the Bureau of Labor Statistics.

Per diem: Meaning “per day” or “by the day” in Latin, per diem rate is what a worker expects to be paid for a day’s labor.

Self-employed workers: Self-employment is a general term used to describe small business owners or individuals who can “carry on a trade or business as a sole proprietor or an independent contractor,” according to the IRS. GAO describes these individuals as “self-employed workers who are not independent contractors, such as doctors and restaurant owners.”

Standard part-time workers: Individuals who work less than 35 hours a week for an employer on a regular basis and are wage and salary workers.

ECONOMY

Full-time and part-time work after the 2008 recession

During the economic recovery, not only have low-wage jobs replaced higher paying work, but full-time jobs are also being replaced with part-time jobs. The Federal Reserve Bank of St. Louis shows full-time workers dropped from a high of 122 million in November 2007 to 111 million in December 2009. Even though more full-timers have found work of late, the number has stayed at 118 million since early 2014. In the meantime, part-time workers have gone from 25 million in 2007 to 28 million in 2014, with a substantial increase in the number of involuntary part-time workers. The number of people who wanted full-time jobs but could not find them went from 4.4 million in 2007 to 7.5 million in June 2014. In 2012, if you were an involuntary part-time worker and a woman, the chances were five-times higher that you were unemployed for much of the year than if you chose to work part-time. The National Employment Law Project says the majority (60 percent) of new jobs taken by women between 2010 and 2012 were low-wage, i.e., paid less than $13.83/hour, and many of them do not offer health or retirement benefits.

The pressure to find enough work is high, calling for more creative and inventive job creation strategies. At the same time, the U.S. (and much of the industrialized globe) is engulfed in an inventor’s revolution, similar to the one at the beginning of the 20th Century (remember, when cars, telephones, planes and antibiotics were born?). Technology has been changing, and some might say destroying, white-collar jobs. As reported by the BBC, Google co-founder Eric Schmidt has called the “jobs problem” the defining concern for the near future: "As more routine tasks are automated, this will lead to much more part-time work in caring and creative industries. The classic 9-5 job will be redefined." And he points to technology as the major culprit in middle class job loss. To Schmidt, the sea change in the world of work is on par with that of the Industrial Revolution.

Trends in business

On the business side, the priority across all sectors is to raise profits and lower costs in the most cost-efficient way. Businesses are feeling pressure to cut back on expenses, including laying people off to reduce the payroll, offering fewer sick days or health insurance benefits or outsourcing services to temporary workers, independent contractors, etc. Scholars such as Erin Hatton, via email conversation (as well as in her book, The Temp Economy) asserts there are counterexamples of companies that do not sacrifice workers’ needs in order to survive as successful businesses. In other words, the profit maximizing model is just one of several ways that businesses can make a profit.

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In some industries, good, efficient business practice means keeping top talent and developing flexible policies as an incentive. In others, it means using just-in-time scheduling to meet customer demand, with less concern as to how it will affect workers. As Demos describes it, this is a practice in which "employers rely on scheduling software and measures of demand (such as floor traffic, sales volume, hotel registrations, or dinner reservations) to match workers' hours to labor needs." In industries like service and construction, the ideal workforce would be flexible, expanding or contracting as needed, with an immediately available pool of specialized talent that can work on specific tasks and find experts to troubleshoot when problems arise. Richard Greenwald, a labor historian, says that the trend of increasing efficiency to increase profit essentially "shifted all the risks that large institutions used to have onto the backs of individuals." In a recent email conversation, labor scholar Ruth Milkman cautioned that it is important to put the current economic situation in a bit more context. She says that although the model of maximizing profit has been used for centuries, independent or contingent work was relatively rare between 1935-1975 because labor regulations passed in the New Deal and the growth of unions gave workers other options. As both protections were eroded in the 1970s, the independent workforce grew. However, she also emphasized that not all profit maximization efforts automatically lead to the expansion of contingent work.

Emerging forms of independent work

For years, workers' wages (hourly or salaried) and benefits (traditional work-based benefits or public social safety net programs) have been dwindling.[2] If you have been earning low- or mid-level salaries, then you have been particularly hard hit by this trend, even if it seems like you work around the clock. Many with access to traditional benefits pay higher and higher employee contributions to health coverage and pension plans, making the benefits less affordable. Those without full-time work turn to what may seem like the only alternative: independent work.

Today, independent work takes many forms (see glossary). Some types of independent work have been a part of workforce for a long time. The newly renamed "gig economy" includes management consultants, writers, designers, contractors, IT experts, etc. Newer forms include the sharing, or instant gratification, economy. In the sharing economy, individuals rent out their own labor, utilities or possessions (house, car, bicycle) through peer-to-peer (P2P) networks or highest-bidder apps (think Uber, TaskRabbit, Airbnb, RelayRides and the like). The exact size of the sharing economy is difficult to estimate, but labor scholars say that it is expanding rapidly, especially with support from venture capitalists.Rachel Botsman, an expert on collaborative consumption, told the Economist that the P2P rental market alone is worth $26 billion. More and more people are jumping into the sharing economy, in part from desperation at trying to find enough work. They are opening up their private spaces, entering others', and marketing their ability to perform diverse tasks—catering, childproofing cabinets, gardening, painting, pet-sitting, posting items on eBay, organizing emails and tutoring, among many others. They also work in public spaces: driving, flash mob dancing, picking up lunch or mail, etc.

One troubling facet of the sharing economy is that workers compete against each other for customers, often by offering low prices. Labor expert Stanley Aronowitz likens the arrangement to "wage slavery in which all the cards are held, mediated by technology, by the employer, whether it is the intermediary company or the customer." Said differently, the gigs may appear initially to pay a decent wage; however, once costs for travel and necessities like licensure, insurance or equipment maintenance as needed—most workers make less than minimum wage, asserts Dean Baker of the Center for Economic and Policy Research. And that does not factor in the costs of finding and securing new work. The risks are real:

When riders of peer-to-peer ride shares get hurt, the drivers are responsible. Harm by customers that damages drivers' cars and hosts' homes largely falls on those individuals providing the services, not the operating firms who contract with them. Plus, if the workers receive bad reviews from customers, the blame falls on the worker and the hiring firms can deactivate them at will.

There are other concerns about the sharing economy that have been explored anecdotally, but would benefit from deeper research. For example, as Susie Cagle writes, the ability to succeed in the sharing economy depends on two critical resources: access to technology and its devices, because much of work is conducted online, and networks that can connect workers to potential income streams. Concerns about lack of access across the digital divide and potential racial bias have been raised in small studies, but there is not wide-spread research on the issue. The verdict is out on how safe the sharing economy is for women who participate as consumers and providers of services. A few stories that have made it to mainstream news include a report of different hosts at the hospitality exchange company Couchsurfing sexually harassing a woman customer and raping another. Another company was involved in a case of a female host whose house was burglarized, and many of her belongings burned and damaged by her guests. It remains unclear whether these are isolated incidents or a more wide-spread problem. Finally, some observers look on the sharing economy as replicating "old patterns of privileged access for some, and denial for others," with large profits by major players in the market being of little benefit to the rest of the economy. Others speculate that vulnerable workers—e.g., women, particularly women of color, poor, trans and gender non-conforming communities—are probably not reaping big benefits in the sharing economy. Similarly, Janelle Orsi, executive director of the Sustainable Economies Law Center, as cited in this article, states: "The people who could get the most benefit from this cannot harness the capital needed to jump through these hoops."

Distinguishing between independent workers and regular employees

Some, like labor professor David Bensman, believe that the rise in the independent workforce is not because workers prefer it or because technology is taking over jobs that human beings were necessary for at one time. Instead, he contends that, "Work that could be (and once was) standard payroll employment is turned into substandard jobs" as a way for business to cut costs. Unlike standard employees, independent workers are considered businesses. For example, the Fair Labor Standards Act (FLSA) and its minimum wage and overtime provisions automatically apply to any worker classified as an employee. Thus, when employers hire independent workers, they stand to save approximately 20-40 percent in costs by not paying Social Security, Medicare, state and federal unemployment insurance, workers' compensation or employer-based benefits. Independent workers, on the other hand, pick up the burden of paying income and payroll taxes from their untaxed wages. At the same time, these workers can write off expenses they incur at work – purchases of related equipment, services, software, work-related meals and travel, etc., as well as rental of office space and equipment.

They bring their own equipment, materials and tools and set their own hours. They are supposed to be in control of the production of their work and are not given much training in the delivery. In terms of pay, workers can be paid per diem, per project or per hour. Per diem workers are employed on an "as needed" or per day basis and hired to provide short-term, temporary (hours to several days) work. They can be paid by projects (e.g., per manuscript), by piece rates (e.g., number of containers or trucks un/loaded or classes taught in a semester) or per hour.

The problem of employee misclassification

Misclassification of workers is a common problem – i.e., an employer filing a worker as an independent contractor when for all intents and purposes she is an employee. According to the Department of Labor, "Misclassified employees are often denied access to critical benefits and protections – such as family and medical leave, overtime, minimum wage and unemployment insurance – to which they are entitled." The cost of misclassification to the Treasury, Social Security, Medicare, state unemployment insurance and workers compensation funds is significant. As reported by the AFL-CIO, the Government Accounting office estimated that in 2006, misclassification cost the government close to $3 billion.

To ward off confusion, the IRS has created a 20-question survey to guide employers in how to classify their individual employees. But in 2010, Seth Harris, former Deputy Secretary of Labor, stated that "much worker misclassification was intentional," in a Senate hearing before the Committee on Health, Education, Labor and Pensions. Cathy Ruckelshaus of the National Employment Law Project testified before the Senate in 2013 and described misclassification as a nationwide concern that crops up across industry and sector. Certain areas have a higher incidence, including construction, day labor, janitorial and building services, home health care, agriculture, poultry and meat processing, high-tech, delivery, trucking, home-based work and the public sectors. The burden on workers misclassified as independent contractors is clear. "These workers suffer the worst of both worlds: they toil without the protections and benefits of employees, yet are without the control over their work that true independent contractors enjoy," according to a 2007 report by the American Rights at Work. The Fiscal Policy Institute's James Parrott said of misclassified construction workers in New York City in his hearing before the New York State Senate Standing Committee on Labor in 2010: "Despite the dangerous working conditions, workers in the underground economy are paid very low wages, are denied the protections of universal social insurance programs (workers' compensation, unemployment insurance, disability), do not have health coverage or retirement benefits, are not able to join a union, and rarely are they entitled to paid sick leave, holidays or vacations."

The highs and lows of independent workers

While management consultants and other white-collar independent workers can easily make over $100,000 in a year, those in the middle make an average of $45,000 - $50,000/year. Those at the lower end make far less. For example, on-call/day laborer and agency temps disproportionately report low-household incomes (below $20,000/year), according to GAO.

Independent workers are employed in diverse sectors and occupational hierarchies and can be broadly divided into two categories in terms of their level of wages and access to benefits. On the lower-wage end, there are workers in agricultural, construction, mining, manufacturing, warehousing, services and retail sectors working as day laborers, migrant or seasonal workers, agency temps, taskers (think TaskRabbit, oDesk and Elance), among others. Lower-wage contingent workers tend to make poverty-level wages, and some qualify for public benefits. According to the Freelancers Union's 2010 survey, 12 percent of its national membership received some types of public assistance.

Erin Hatton, in a New York Times article about the increase in temp jobs from 2010 to 2013 that outpaced any other industry, looks back at recent U.S. history to contexualize the underlying causes. In particular, she notes that the rise of temporary employment was strategically propelled by branding temp work as "women's work," not intended to compete against "breadwinning" union jobs. One ad campaign from 1971 promoted the “Never-Never Girl” who, according to Kelly Services, a temporary staffing company, “Never takes a vacation or holiday. Never asks for a raise. Never costs you a dime for slack time. (When the workload drops, you drop her.) Never has a cold, slipped disc or loose tooth. (Not on your time anyway!) Never costs you for unemployment taxes and Social Security payments. (None of the paperwork, either!) Never costs you for fringe benefits. (They add up to 30% of every payroll dollar.) Never fail to please. (If your Kelly Girl employee doesn’t work out, you don’t pay.)” Setting up the stage for today’s permatemps, temp industry leaders then promoted the notion of “semi-permanent employee” by framing permanent employees as “costly burden” or a “headache” that needed relief, Hatton writes. Recently, there has been a similar dialogue about women being “better equipped with the skills demanded of independent workers”—possessing qualities such as empathy, creativity and the willingness to accept an uncertain, lower-status work style, as described by Susannah Breslin, a freelance journalist.

On the higher-wage end of independent work are accountants, adjunct professors, coders, designers, doctors, entertainers, filmmakers, financial analysts, IT specialists, lawyers, managerial consultants and contractors (corporate, nonprofit and government), programmers, social media specialists and writers, among others. Some are self-styled entrepreneurs (seeking venture capital, making product prototypes, participating in Maker Faires, etc.) while others are cobbling together a mosaic of jobs to stay afloat. According to a 2013 MBO Partner report, independent workers (self-identified as contractors, freelancers, consultants, etc., or those “working on-call without schedule/income guarantees”) were diverse in terms of age, with Gen X and Boomer workers accounting for more than two-thirds (69 percent) of this workforce. Millennials and mature workers accounted for 20 percent and 11 percent, respectively. The survey found a 50/50 gender split.

Successful independent workers (whose average annual income was $87,000) were more likely to be men (65 percent) and of the boomer-generation (51 percent), according to researchers from MBO Partners and DeVry University. (According to this survey, Gen Yers were under 35, Gen Xers were between 35 and 50, boomers were between 51 and 66 and seniors were 67 and older.) These top-paid consultants have high-level skills, and are highly-educated specialists and professionals, reports Accenture—as indicated by the existence of temporary CEOs/CFOs/COOs hired to troubleshoot specific problems. The report also notes that due to the healthcare exchanges, more workers are able to work flexibly without being tied to one employer. Some call them supertemps—the upper rungs of the employment hierarchy who choose flexibility and freedom of project-based work and are compensated with comparable, if not better, pay compared to their standard employee peers. Researchers from MBO Partners and DeVry University also found that mature workers (aged 67 and up) accounted for 15 percent of successful independent workers, and human resources experts comment that a growing number of retirees are tapped as high-skilled, contingent talents.

Pros and Cons

It is possible for some independent workers to liberate themselves from standard workweeks, office politics or creativity-stifling workplace cultures. When working independently, they can save money on transportation, food, equipment, etc. As high-wage contingents who tend to get paid more than their salaried counterparts, they can purchase health insurance or pension plans in the private market, if they do not have access to those through their spouses or partners. Some independent workers want to join a union, for example adjunct professors looking for better protections, but others may not, or may not have access to one.

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Economic security is tenuous, as some experts observe that most contingent workers only make a fraction of what they earn in full-time work, with none of the benefits. In a 2012 survey, more than half (55 percent) of independent workers were concerned about their unpredictable income stream; and close to two-fifths worried about getting future work (40 percent), retirement (40 percent), traditional benefits (37 percent) and lack of job security (36 percent). Many struggle with unpaid bills and student loans. In addition to economic constraints, women independent workers in certain industries face additional obstacles. A study of hotel workers found that women employed as housekeepers were 50 percent more likely to be injured than male workers. Using data from Occupational Safety and Health Administration injury logs, the study showed that Latina/o housekeepers' injury rate was highest at 11 percent, followed by 7 percent for Asian, 6 percent for white and 6 percent for black housekeepers.

Unlike standard employees, contingent workers generally do not have access to employer-provided benefits such as health insurance, pension plans and paid leave. They do not have access to unemployment insurance and workers' compensation and cannot get relief if their clients do not pay for their work. A 2009 Freelancers Union survey found that 77 percent of independent workers had trouble getting paid at some point during their career as freelancers, and an average freelancer lost approximately $6,000 due to client non-payment. In these cases, workers were unable to obtain relief through the Department of Labor's worker protections.

Even jobs with high occupational prestige are not so secure or lucrative. Contract lawyers, hired by law firms to work on legal cases by contract on a temporary basis, get hourly compensation between $25 and $40 ($45,500-$72,800 annually, assuming full-time) in major cities, as compared to $160,000, the average first-year associate's salary at large law firms. Contract lawyers often do not have access to work-based benefits and standard law office resources such as administrative support, research databases, and office supplies, etc. A survey of part-time faculty showed that they were paid $2,700 per class, and only 23 percent had access to employer health coverage in 2012. Adjunct professors' contracts are often renewed or discontinued on short notice. Colleges and universities have been expanding the size of their adjunct faculty, and more and more courses are taught by "contingent faculty." Accounting for 62 percent of the adjunct workforce, women are disproportionately impacted by this trend.

For low-wage contingent work, the situation can be worse. In its 2013 report At the Company's Mercy: Protecting Contingent Workers from Unsafe Working Conditions, the Center for Progress Reform identified growing trends of reliance on contingent workers in the farming, construction, warehousing and hotel industries and documented many workers making low wages in unhealthy and unsafe working conditions. Specifically, the report found that increasing numbers of hotels are replacing full-time housekeeping staff with part-time workers from staffing agencies. According to the Bureau of Labor Statistics, in 2013, the average hourly wage of workers in the *maids and housekeeping cleaners* occupational category in the *traveler accommodations* sector was $10.48 (with an average annual salary of $21,800). For workers in the same occupational category who were part of the *employment services* sector (which includes temp agencies), their average hourly wage was $9.46 (with an average annual salary of $19,670). Temp workers are given more rooms to clean per day, compared to their full-time employee peers, and many work during breaks to fulfill their quotas. The Center for Progressive Reform also notes that especially among maids and housekeepers employed on a temporary basis, the unclear relationships between temp workers and hiring hotels can lead to underreporting of sexual violence and inadequate responses from employers.

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