

**Dodgy Labour Market Dichotomy: The Repercussions of Sneaky Labour
Intermediaries on Employees' Constitutional Rights**

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Abstract

Purpose: The flexibility inherent in temporary agency work allows employers to cut labour cost in a variety of ways. Recurring themes in the employment literature draw attention to the duality of the labour market rooted in type-of-contract segmentation. This duality in the labour market carries with it a number of undesirable consequences.

Design: Drawing on qualitative data from six case studies in Pakistan, this paper reports on an in-depth study of deceitful labour market intermediaries, through which employers attempt to bypass statutory obligations concerning workers' constitutional rights.

Findings: A case study inquiry, based on qualitative interviews, suggested that the agencies were 'created' or 'arranged' to illustrate indirectness of employment relationship by misclassifying effectively permanent employees as 'agency workers'. The evidence points towards a growing trend for agencies to be simply a sham arrangement.

Originality: This study broadened our comprehension about the nature of temporary agency employment and subsequent labour market duality in Pakistan, beyond the traditional functional model of legitimate labor market intermediaries. A picture of precarious work from Pakistan being a large and growing economy shares many features in common with the rest of the world. These findings offer useful policy and social implications for national and multinational companies.

Key words: Employment Agencies, Workers' Statutory Rights, Dubious Employment Intermediaries, Labor relations

Introduction

The realities of workplace staffing arrangements are diverse as well as complex. Understanding the diversity of work arrangements and their consequences for workers' rights

are increasingly important as we enter the twenty-first century (Kalleberg 2009; Spreitzer *et al* 2017; Vallas and Prener 2012). Although the literature on temporary agency employment continues to unearth an ever more complicated social trend and precarious work has received burgeoning academic interest lately (Arnold and Bongiovi 2013; Hipp 2019; McDowell *et al.*, 2014; Prosser 2016; Schewe and White 2017), the practices of the third party labour intermediaries (employment agencies) is scarcely discussed in the literature, particularly beyond the Western world.

This is particularly important because among the features of globalization are the multi-national corporation (MNC), active in numerous global markets, and longer, more complex global supply chains. Both of these phenomena mean that MNCs from the Global North are active in Pakistan, and indeed, the government in Pakistan is encouraging foreign direct investment (FDI) with international companies investing in all the sectors studied in this paper (notably yarn spinning). This paper is therefore of relevance to these MNCs, in terms of regulation in Pakistan (and how it is avoided), and with reference to the MNCs' approach to corporate social responsibility. As Kalleberg and Hewison (2013) point out "Changes in the Asian region are directly connected to changes in the U.S. and Western Europe" (p. 280)

The extant literature predominantly discusses employment agencies in their conventional model, such as independent real employment agencies supplying temporary workers to businesses, as these often function in the Western developed countries (for example Adecco, Manpower and Randstad). In most cases, these agencies take on the role of employer for the agency workers, with the exception of the United States, where legislation requires both agency and the client firm to act as 'Joint Employer' (Dennard and Northrup 1993). The issue of

dubious employment intermediaries is an under-researched area. This study seeks to make a novel empirical contribution to the emerging body of ethical labour relations and agency employment literature by seeking to identify potentially varied characteristics and explanations of agency employment in Pakistan. In particular, this study seeks to assess the motives of agency employment, especially in organisations with the suspicion of using dubious labour market intermediaries. Moreover, it is equally important to explore the effects of these precarious forms of agency employment on agency workers. Therefore, this research, will also involve an assessment of the implications of agency employment on workers' constitutional benefits. In addition, the implications of agency employment on agency workers' right to collective bargaining and representation will be investigated. Hence, one of the main goal of this study is to explain the deviating utilization of temporary agency work in the industrial relations system of Pakistan when compared with agency employment in West – where agencies operate mostly in their traditional role.

Pakistan has one of the least restrictive outlooks towards third party labour intermediaries (Samad and Ali 2000; Zaman 2004). Cursory evidence suggests that it amplifies the odds of worker' abuse (Khan and Kazmi 2003; Samad and Ali 2000; Zaman 2004). Apart from the lacunas in the existing regulatory framework on the use of agency employment, weak enforcement of the existing laws provides a level playing field for opportunistic employers to cut labour-related expenditures by exploiting the poor bargaining position of agency workers. One of the main concerns about the growth in agency work is that it may not be taken through choice and is a poor alternative to permanent work.

In the time of Covid -19, the precarious employment practices of the organizations have reinforced economic and social inequalities. Precarious employees have witnessed temporary

or permanent job loss, reduced benefits and higher exposure to occupational health risks. The paper responds to the call by management scholars (Bapuji et al 2020) to investigate how organizational employment practices (such as agency employment) contribute to furthering economic and social inequalities in societies. This paper thus contributes to ‘moral economy’ framework and highlights important problems experienced by precarious workers due to dubious employment practices of some organizations in Pakistan. Further, this study is a contribution towards achieving Sustainable Development Goal 8, “Decent work and economic growth” (to which all UN member states are committed) and to meeting other global agreements such as the International Labour Organization (ILO) conventions on decent work (ILO 2020). This evidence that there is exploitation of precarious workers in Pakistan can inform policy in the Global North in the areas of trade and of development aid.

Theoretical Insights on Agency Employment Use

Kalleberg and Hewison (2013) and Hewison and Kalleberg (2013) provide a contemporary, comprehensive overview of precarious work in Asia, situating it within wider global trends. We note that, broad though their coverage of Asia is, it makes no mention of Pakistan, the world’s fifth most populous country and one of the fastest growing economies in the world. In addition, while precarious work is best understood as a global phenomenon, it also needs to be analyzed in local context, which is a further contribution of this paper.

Precarious work is a growing sector of the labour market in Pakistan, mirroring trends in the rest of the world. Likewise, policy responses by the Pakistani state have been similar to those seen elsewhere in Asia and in the rest of the developing world where a more relaxed regulatory regime for precarious work has been enacted, and as we will show, extant laws and regulations are not rigorously enforced, similar to what Knox (2018) found in Australia,

suggesting that practices that seek to circumvent regulation, and lax enforcement of those regulations is not confined to developing countries. The use of agencies to recruit and employ precarious workers is also a global phenomenon as Fudge and Hobden (2018) show.

Even in the wealthier, more regulated nations of the world, there is a notable trend to more precarious work, and to that precarious work becoming more normal, and indeed, permanent.

Berglund (2017) provides a useful picture of these changes in Sweden 1992-2010. Nye

(2020) shows how analogous changes have occurred in UK agriculture, again, one of the

Pakistani sectors that are the focus of this paper. However, there are elements of the global

picture that do not appear in Pakistan. McVicar (2019) shows how, in Australia, temporary

work can often act as a bridge to more permanent, stable work (though not for all workers).

This is not the case in Pakistan. There is a further global trend for corporations to use

precarious workers as a way of driving down wages, note by both Knox (2018) in Australia

and Enright and Pemberton (2106) in the UK. This is also, as we shall see, an important issue

in Pakistan.

One of the few studies of South Asia is Vihari et al (2015), though their focus is principally on tensions within one company in India between the permanent and temporary workforces.

Noronha (2020) also studied precarious workers in India, focusing on how they coped with

their work. Thus there is little research in this field in South Asia, and none in Pakistan.

A key feature in the recent discourse on the future of employment has to do with the unprecedented growth and precariousness of temporary work (Arnold and Bongiovi 2013; Benach *et al* 2014; Schewe and White 2017; Wilkin 2013). The growing body of literature illuminates a diverse set of explanations and varying antecedents of temporary agency employment (Campbell and Burgess 2001; Houseman et al. 2003; Hipp 2019; Koene et al. 2004; Purcell et al. 2004; Spreitzer *et al* 2017). The blurring of organisational boundaries

affects not only which entity bears the responsibilities for different legal obligations owed to employees, but also equity in employment conditions. A client firm, by hiring workers through a subcontractor (agency), can in effect control the outcome of the disparity in benefits and rights of workers. This is done by outsourcing employment obligations and responsibility for labour procedures and standards to another employing entity, such as the contractor acting as an employment agency.

Given that agency employment is a complex employment relationship, the widespread use of agency employment is critically related to employment regulations. The utilization of third party labour intermediaries can be motivated by employers' intentions to weaken or avoid trade unions (Pfeffer and Baron 1988; Uzzi and Barnes 1998), to ensure savings on employee benefits and to avoid provisions regarding unfair dismissal (Zuehl and Sherwyn 2001). There are situations where agencies have been reported to offer exploitative conditions to jobseekers who have few alternatives (Gray 2002). The exploitative nature of agency work can take different forms. One significant example of this within the UK context are the labour practices of 'gang-masters' – labour 'sub-contractors' who employ gangs of workers (especially immigrant workers) in the agricultural sector (Gray 2002). These sub-contractors bring immigrant workers to the UK to work in fruit-picking and food processing. As these immigrant workers do not speak English and lack of knowledge of their statutory rights, they live in sub-standard accommodation and are not provided with statutory entitlements.

Heightened cost burdens often push firms to unceasingly explore new ways of minimizing costs. These agencies are frequently sham entities, having been created so as to diminish the quantity of representatives on a firm's payroll, with the goal that the businesses' commitments to statutory advantages are limited to a smaller number of workers (Sayeed et al. 1997). These are, for the most part, shaped on an impermanent, improvised premise and are hard for a labour

ministry to follow and regulate. Labourers enlisted through these agencies get salaries from the agencies, and hence these agencies are frequently utilized as a mediator for the payroll function alone. This, at that point, excludes client firms from any lawful commitment to offer constitutionally mandated minimum benefits to these labourers, since Pakistani law considers the client firms and the agencies as two independent entities (IRO 2002). This ‘business partnership’ between agencies and client establishments effectively means the employer providing a fee to the agency for taking over the title of ‘employer’ for legal purposes by simply arranging the wages to be paid to their long-term workers, effectively ‘permanent’ through a third party (agency) which does not assume any other responsibility as an employer.

Further to this form of dubious agency system, it is suggested that some employers in Pakistan go one step further and adopt clearly illegal methods to achieve the same purpose of avoiding employers’ responsibilities by simply creating a shadow agency on paper (agency in this case is effectively no more than a separate pay-roll book) or by creating a fake agency in the form of hiring a person to play an agency’s role. Whether the dubious agency system exists in deviant or illegal form, it is potentially aimed at illustrating the indirectness of employment relationship between client organisations (employers) and workers to cut non-wage employment costs, especially costs associated with statutory benefits. Furthermore, employers are generally hostile to the prospect of unionisation (Haynes and Fryer 1999; Heery *et al.* 2004). Researchers have often associated the use of workers on temporary contracts with the employer’s motive to weaken union power and influence (Cowell and Singh 2002; Olsen 2005; Pfeffer and Baron 1988; Uzzi and Barnes 1998). The growth of agency employment arguably reduces trade union recognition because unions often find it difficult to organise temporary workers not covered by collective bargaining. These workers are in any case often less inclined and feel less need to join trade unions (Booth and Francesconi 2003). This is primarily because

unions are rarely in a position to offer them collective bargaining services, as most of these workers are employed on short-term working contracts.

Hence, this study sought to explore the motives and characteristics of the system of dubious agency employment and its effects on agency workers. Therefore, by drawing evidence from a case study analysis, this research explores why different organisations implement particular practices, resulting in varied implications for agency workers' constitutional benefits and the right to collective bargaining. One key supposition is that agency employment potentially takes different forms once it is examined outside the western model of agency employment, such as that of Pakistan.

Methodology

The study adopted a case study approach and included semi-structured interviews with a number of agency workers, HR officials, senior union and agency officials. The case study approach is often preferred when there is a need to understand what is happening in a system, looking at the totality of each situation, and when small samples are observed in-depth (Easterby-Smith 1997; Yin 2003). Based on preliminary discussions with a number of informed people a group of industrial sectors recurrently came up when the issue of agency employment was mentioned. These sectors were hospitality, food & beverage and synthetic yarn manufacturing. The data was, therefore, drawn from six case study firms from these three sectors given they exhibit greater prevalence of contract agency labour in Pakistan. Since the central research focus is the exploration of dubious agency systems and its effects on agency workers, it was important to choose case study firms by adopting a purposive sampling approach (Becker 1998). Due to the context-sensitive nature of the inquiry, it was felt that incorporation of interviews from multiple respondents would be an appropriate method. This

triangulation approach justified an in-depth case study inquiry as opposed to some sort of large-scale analysis of manager-only interviews

A total of 82 interviews were conducted (see Table 1 below). This included sixty-two structured interviews with workers and twenty semi-structured interviews with supervisors and union leaders. Only five, out of 88, respondents were female. It was tentatively planned that at around fifteen interviews would be undertaken within each case study organisation, involving at least two to three managers (employers’ representatives), one or two senior union official and 8-10 randomly chosen agency workers. However, the total number of interviews and the composition of interviewees varied from case study to case study primarily due to access arrangements within each case study. It was particularly contingent on the assistance of union representatives in recruiting to worker’s interviews. The perceptive nature of the research questions necessitated establishing personal contact with the respondents in the form of interviews as opposed to the use of any sort of large-scale survey analysis. Hence, in-person interviews with a few arbitrarily selected workers in each case study was the workable option. Moreover, the unavailability of basic data on the scale of agency work in Pakistan posed serious constraints for establishing any sort of representative sampling of interview respondents, especially agency workers.

Table 1 – Interview Respondents

Case Firm	Supervisors	Union Representatives	Workers	Total
Hospitality-1	2	2	7	11
Hospitality-2	1	2	8	11

Synthetic Yarn-1	1	1	15	17
Synthetic Yarn-2	2	0	8	10
Food & Beverage-1	2	2	12	16
Food & Beverage-2	5	0	12	17
Total				82

Owing to the obstacles associated with obtaining management’s consent, workers had to be arbitrarily selected based on their accessibility and convenience. Most of the interviews with workers were conducted at either their residences or at a discreet location near their workplaces since a good number of them were fearful of speaking about agency employment practices at their workplaces. In many instances, union officials escorted the author to the residences of these workers. Union officials also proved helpful in allaying the concerns of workers regarding their confidentiality and persuaded them to speak freely during the course of those interviews.

A structured schedule of questions was developed for each type of interview to ensure that a series of core set of questions were asked to each respondent in each case-study. Interview data was analysed through a thematic approach (Braun and Clark, 2006). An inductive approach was used in the analysis of data by identifying patterns and themes, which emerged organically from the data, instead of imposing any existing framework. The unit of analysis in this study were single workplaces as a case study – not an entire organisation or a firm. This research carefully considered ethical issues regarding preserving informed consent, privacy and confidentiality of both research respondents and the case study firms.

Findings

The transcribed interview data was analysed to explore particularly pressing themes and patterns, explaining the key motives and the potentially varying nature of agency employment utilisation among case study organisations. Three key themes emerged recurrently from the analysis namely: benefit cost savings, union avoidance and dubious hiring practices of client organizations for employing agency workers.

Benefits cost savings

One important theme which emerged from the data was the avoidance of cost associated with employment benefits. The intermediary relationship premise, on which the agency employment rested, focused primarily on realizing cost savings and led to the circumvention of statutorily required minimum benefits (Ward *et al.* 2001). A senior union representative in a Food & Beverage firm explains the plight of agency workers by saying;

“These (agency) workers are doing permanent duties (performing core permanent type jobs), working in regular shifts, getting salaries like permanent jobs but are not getting any fringe benefits ”

When asked whether or not he receives constitutional benefits, another worker replied;

“No, nothing – used to have it (benefits) from the previous agency (before getting switched to the current agency) but not from the current agency “

Similarly, when asked whether or not they receive constitutional benefits, one worker said;

“No, nothing - even any day off (including) Sunday will be deducted from the salary – no paid time off – every minute is tracked”

The union’s finance secretary in the same Synthetic Yarn firm sums it up thus;

“We also want our employer (Synthetic Yarn A) to use permanent employees. We do not support the use of agency employment. Actually, given the situation of our country, workers should get the maximum benefits. There is a big salary difference between permanent and contract workers. In regard to benefits, there exists a big difference between permanent and contract workers as well. In Europe, agency workers can perhaps maintain their living standards, but here it is very difficult for the agency workers”

This Synthetic Yarn firm offered an involuntary golden handshake to its permanent workers in return for a change in their contract type from permanent to agency contracts. In this context one worker explain the impact of this contract conversion on their benefit entitlements;

“And all of the benefits including medical, gratuity and all other benefits which they (agency workers) were previously (prior to getting involuntarily switched to agency contracts) receiving were withdrawn once they were switched to the agency contracts - so only salary and allowance – for example as permanent they were allowed 24 leaves in

the year but now on agency contract they are being given 8 leaves a year only – what a difference”

When asked about whether one objective of hiring workers through agency is cost savings in benefits, the manager of personnel in another Synthetic Yarn firm said;

“Ultimately it happens, because we don’t give them (agency workers) bonus and no group life insurance (a statutory benefit). But the idea (for using agency workers) was not the benefit costs savings nonetheless, we are having this saving as well”

When asked about benefit availability, one worker in the same Synthetic Yarn firm said;

“Not a single day off not even Sunday and if take any day off (even for sickness) salary get deducted – and they deduct 40 rupees for Social Security (SS) every month but then don’t give us SS card”

This theme was also captured in the comments of another worker, he said;

“No benefits – only SS card even that was made for few people later they stopped that so others don’t have it”

As many of the foregoing quotes indicate, benefit availability for the agency workers was a serious issue in the case study firms. Employers who use agency workers are able to evade Social Security in addition to not paying pension benefits or providing leave entitlements (Forde 2001; Ward *et al.* 2001).

Data such as these strongly suggest that escaping rising fringe benefit costs appears to be a major motivation for hiring agency worker across all six case study organisations. The lack of obligation to provide statutorily required benefits by allowing a third party to take over ‘employer’ status enables client organisations to dispense with all non-wage related employment costs. Given, these agencies are not usually regulated and find it less important to fulfill their obligations as an employer, leaving workers deprived of their essential benefit entitlements.

Union Avoidance

A key reason why agency workers cannot join a union in Pakistan is because most agencies are not genuine, registered firms, as they are supposed to be. Agency workers in many cases are aware that the agency is a sham arrangement and even if they make any effort to unionise, the client will pretend to switch or terminate the agency contract to a new agency, by renaming the agency and getting new workers on board. This would, ostensibly, give the agency ‘sufficient grounds’ to terminate the services of workers, who wanted to ‘organise’ against it – by stating that there is no work for the workers to do since the contract is cancelled. A union spokesman who was also a former union president presents the workers’ plight in the following words;

“If workers do something (union campaign) they will lose their jobs

because employers can easily do away with it for instance by changing the agency, it is such poor bargaining power of worker in this regard”

The agency official providing workers to a five-star Hospitality firm explained his client’s justification of using agency employment as;

“Because, employers would like to have minimum unionised staff in Pakistan. Because, unions create problems. So if they have more staff on permanent contracts then unions strength gets stronger. So if there is one union and everybody goes on strike then hospitality business can suffer – we can’t afford for hospitality’s operations to shut down. So if unionised staff goes on strike then hospitality at least have our staff to keep functioning”

The Human Resource manager in another five-star Hospitality firm was frank about his view that one key reason his organisation hires workers through employment agencies is to weaken unionisation. When asked whether or not union avoidance is one main reason in the case of his organisation, he responded by saying;

“Yes - Union avoidance and also to weaken union”

At another stage he continued by saying;

“This is what I am saying, union avoidance. Union can be formed by the agency workers. So if they form union against the agency, (as a

bargaining unit which negotiates its terms and conditions with the agency) it will hurt our business because they are actually working for us, so it can hurt our business and our managers will have nothing to do”

At another stage during the interview, she mentioned;

“Actually we hire the workers and do the interviewing etc and then we tell the agency to hire them, (implying do the paperwork)”

The owner of one of the agencies providing workers to a Food & Beverage firm made the following remarks;

“That is why multinationals are getting into this business (implying getting agencies in the middle as an intermediary) because they don’t want to get into this hassle of unionism or other such activities.”

A senior union spokesman in another Food & Beverage firm explained why his company hires workers through an agency, by saying;

“Let me clarify one thing. Because of the agency system union’s strength has frozen and we are affected by it every new person they are getting is through the agency - even for the technical positions they are getting people through agencies – we are definitely affected by that - no new recruitment happened (for permanent employment) we are watching it”

This system is often used by firms trying to sidestep their collective agreement obligations. By formally maintaining that certain workers who actually work for them are not their employees, but rather the employees of another entity (the agency), such firms are cutting costs.

Promoting workers to supervisory positions to deter unionisation

A tactical move to potentially reduce the strength of a unionised workforce by promoting non-managerial permanent workers to ‘supervisory’ positions was noted in a couple of case study organisations, such as Hospitality A and Food & Beverage B. This is yet another example of misclassification of workers to a category by which employers can weaken union membership. Interestingly, in Pakistan supervisory staff cannot exercise their collective bargaining rights with the bargaining unit composed of non-supervisory workers. Moreover, for the most part, there is no tradition of separate unions for managerial staff in most industrial sectors within the Pakistani economy. This was explained by the union president in one of the Food & Beverage firm. He said;

“What our company did - they gave half of their workers the title of ‘supervisors’ (sort of promoted them to a kind of managerial/supervisory positions so that these people could not technically join a union – in turn union became weak”

The former union president in a five-star Hospitality firm captured this theme in the following words;

“If they promote somebody from the Union to put him/her on supervisory category but actually on this supervisory category there is very less protection and what they achieved was that the person can no longer be the member of the union by virtue of having a supervisory status (management staff). So this is a strategy to weaken union. They lure union people into management (supervisory) positions just simply to weaken union.”

When asked “Since your employer can hire workers on direct company contract, then why do they get agencies in the loop?” The Union president of the Food & Beverage firm replied;

“Could be various reasons - One reason is that if they become permanent they will be part of union”

Even where agencies are considered employers of agency workers in regard to exercising collective bargaining rights, this right rarely materialises (Weiss and Schmidt 2000). Client firms can usually find alternative, cheaper contractors (agencies). Unless the contractor's clients are willing to refrain from terminating a contractor who has unionised and are also willing to accept the higher costs that result from collective bargaining agreements, the processes of bargaining and organising are seriously frustrated. In Pakistan, if agency workers win a union election, the result effectively can be nullified by the cancellation of their client's contract with the agency through which they are hired.

Continuity of assignment under different agencies and contract types

None of the sixty-two randomly chosen agency workers interviewed in all the six case studies ever worked for any other client through the same agency. Around 31% of the workers reported to have worked through various contract types during the course of their affiliation with the respective case study organisations - they were not contacted when their 'legal' employers (agencies) were transformed from one to another. Workers were simply informed by the management that at a particular time their agencies had been changed. They were simply informed that they will see a different agency name on their salary slip in future and everything else would stay the same. A number of workers interviewed in Food & Beverage B mentioned that they worked under multiple agencies during the course of their employment with Food & Beverage B and were notified by the management that their agencies had been changed on paper without having given their prior consent for this change to take place. According to the workers, the Food & Beverage firm's management kept informing workers once the agency transformation took place - as one worker said during an interview conversation;

“About 4-5 years ago I worked without an agency – then there was an agency called ABC before XYZ, then XYZ came and now it is EFG”

Another worker said;

“Only once the agency was changed, they simply informed us now we need to contact the new agency”

This phenomenon was also reported in a Synthetic Yarn firm, where one worker said during an interview conversation;

“The agency has been changed – in fact it got changed 2-3 times in between”

When prompted “so how were you told that your agency has changed?” one worker replied by saying;

“You can find out – when a new agency come over you hear about it”

One worker mentioned that he had been working for the Synthetic Yarn firm for twelve years and had worked under four different agencies over these years. One worker captured this theme in the following words;

“Agencies were changed over time but Synthetic Yarn A has good system, even if they change the agency they don’t necessarily change the workers during these transitions – It is a very good system”

When prompted “So you have been working for agency ABC for four and a half years?” one worker in a Hospitality replied;

“No, earlier it was XYZ, so it was just the change of name”

This worker mentioned that at some stage the hospitality's management informed him that the agency is currently ABC instead of XYZ (previous agency). This clearly implies a sham – an arranged agency setup.

Involuntary Golden Handshakes

In one case study, a Synthetic Yarn firm, it was reported that an enforced golden handshake occurred a few years ago to convert permanent workers to agency contracts. The conversion from permanent to non-permanent contracts was carried out with the aim of de-collectivizing the employment relationship by engineering a replacement of the collective agreement with contracts of employment which barred the right to exercise collective bargaining (Cowell and Singh 2002). A worker, currently on an agency contract explained the way this conversion was carried out. He said;

“They did it in many departments – and likewise they got the same people (workers who were previously permanent) on lower salary on agency contracts after the switching. And all of the benefits including medical, gratuity and all other benefits which they were previously receiving were withdrawn once they were switched to the agency contracts - so only salary and allowance – for example as permanent they were allowed 24 leaves in the year but now on agency contract they are being given 8 leaves a year only – what a difference”

On further probing on the motives of this golden handshake move and the way it was carried out, he provided the following information;

“Just to deceive the system and workers. It is like this - from the laboratory they gave (awarded) agency business to an ex - worker within the laboratory –because that worker was sort of key/influential one - he helped Synthetic Yarn A influence other people/his colleagues accept involuntary golden handshake scheme and then Synthetic Yarn A got all those people back on agency contracts immediately afterwards - so that one key person who helped the company in convincing his colleagues switch contracts from permanent to agency became the agency owner himself”

According to this interviewee, workers were asked to simply show up the next day as an agency worker in lieu of their previous permanent status. When the worker was asked “You said there were workers who were already working as permanent workers previously? So they interviewed them as well?” he replied;

“No for them there was no hiring process. Synthetic Yarn A just told them that their contract status is changing and they will show up the next day as an agency worker – it was sort of through a full agreement – not a written one though it was verbal – I was among those workers as well”

When prompted “You people had such a long service as a permanent employee – how did you people cope with such contract conversions?” He made the following comments;

“We had to accept – actually there was sort of a threat that if you don’t accept you will be stopped from 21 July on the gate and new people will be hired on your place and if you want to do a case go ahead and do it.”

“Threats were coming from the HR and Industrial Relations departments – we thought whatever is coming our way let’s accept it - at least we were getting golden handshakes”

When asked whether this resulted in any difference in salary or benefits, he replied by saying;

“Yes, there was a big difference. I was getting PKRs18,000 while I was permanent and the moment I was switched to agency contract the salary became 10K. There was also a big difference in the benefits. Earlier, there was company conveyance food etc. Afterwards there was nothing of this sort.”

When prompted whether this golden handshake scheme was carried out with the consent of the workers involved, he said;

“They used to call us in Admin/HR and they used to pressurise us in various ways. In some cases, they called people two/three times (in the HR/Admin departments) to keep on pressurising them – some time they tried to convince that you can do some business with this golden

handshake lump sum amount- sometimes they threatened that we will let you go and you will be jobless etc. You know these days it is very difficult to win a case as there is not much credibility in the judicial system and you lose so much money in that process as well, so people had no option but to accept this”

Lack of due process in hiring agency workers

A key question posed to workers was about the way they were initially hired. In particular, who recruited them, whether agencies or the client organisations. About 39% of the agency workers suggested that they were recruited directly by the client organisations (case studies) not the agencies. This involved client organisations’ personnel staff interviewing these workers without any involvement of agencies. Workers did not contact any agency, they simply approached organisations directly and often completed the application forms of the client organisations. Most were, however, told that they were agency workers, not the permanent employees of the firm. This is a strong indication that workers categorised as ‘agency workers’ are effectively ‘regular’ employees of the case study organisations and are deliberately misclassified as ‘agency workers’ as part of a sham arrangement to evade employers’ legal obligations. When prompted “So you have been working for agency ABC for four and a half years? One worker replied;

“No, earlier it was agency XYZ, so it was just the change of name”

When asked, “Does the agency ever check on him to see if he is ok?” one worker replied by saying;

“No they have no concern - In fact if somebody get some problem in the salary - like salary is short for a day or two (deducted) then they (agency) tell us to go to the HR office and check with them”

From this data, this study identified antecedents which had a bearing on firms' decisions to rely on the agency employment mechanism. For example, the case of the Synthetic Yarn B illustrated: according to one manager interviewed, a permanent worker costs approximately 50,000 rupees per month whilst an agency worker costs around 15000 rupees per month (because of differences in benefits and wages). Though this may not be surprising, as many studies have already emphasized this factor (e.g. Alewell et al. 2005; Houseman 2001), the way cost is reportedly minimised in the case studies investigated implies grave concerns for agency workers – such as the use of dubious agencies. These shadow employment agency scams appeared rampant throughout the low-wage workforce sector within the case study organisations, though they exist in varied forms.

Discussion

The key driving force, across all case study firms, remained cost cutting and union avoidance (Mendonça, 2020) to relinquish employers' responsibilities by formally designating a significant part of 'effectively permanent' workforce as 'agency workers'. Desperate and often uneducated workers are not only willing to work under this arrangement and for very little reward, but they are unlikely to sue (whether because they do not know their rights, or because they fear unemployment). The result is an environment in which employers can easily take advantage of workers, and they have an 'incentive' to do so, in order to save costs. This amounts to exploitation whereby the material welfare of the exploiter depends on the deprivation of the exploited (Wright 1989). Exploitation here does not merely define a set of classes or the status of organisational actors, but a pattern of ongoing interactions structured by

a set of a precarious employment relation which mutually binds the exploiter and exploited together. This is in line with the dual labour market thesis (Doeringer and Piore, 1971) whereby a particular segment of workforce, in this case workers misclassified as ‘agency workers’, are forced into the secondary labour market where they are marginalised and exploited. Here the duality in the labour market is rooted in the exploitation of underprivileged workers, as opposed to any strategic staffing intent on the part of employers – this distinguishes the polarisation of the within-firm labour market in the case studies investigated from most other forms of labour market dualities often researched in the Western developed economies.

The results of this study underscore the importance of taking into account the type of employment relationship for understanding the nature and outcomes of labour market structures. For instance, it is a very different matter to be employed on a permanent basis by a Fortune 500 firm than to work in the same firm as a temporary agency worker (Kalleberg *et al.* 1997). While it may be rare in the developed economies (Schulten and Schulze-Buschhoff 2015) that temporary agency workers are involuntarily stuck in bad jobs, the situation in Pakistan is mostly the opposite of this. Some writers in the West have suggested that businesses do not benefit from agency employment in the form of benefit costs savings or by relinquishing their employers’ responsibilities to the employment agencies (see for example, Lenz, 1996). However, the situation in Pakistan is very much a testimony to the fact that agency employment is mostly a tool to erode workers’ statutory entitlements and collective bargaining rights. The liberalization of employment practices (such as agency employment) and weakening of labour unions explain employees’ benefits-related inequality between organizations (Kristal 2020).

The above evidence points to a cost-cutting mechanism rooted in exploitation. It is argued that negative outcomes of agency employment such as job insecurity is shaped not only by

the type of contract but importantly how the factors like national laws, collective bargaining and representation structures of the employees influence the practices used to recruit agency workers (Håkansson et al. 2020). Agency workers also experience negative psychological and social outcomes. For example, a recent systematic review on job satisfaction and mental health of temporary agency workers in Europe find that comparing to permanent employees, agency workers have low job satisfaction and high levels of depression and fatigue (Hünefeld 2020). Furthermore, in the absence of permanent employment, social status and the overall wellbeing of the employees are also reduced (Scheuring 2020). Additionally, the literature has also noted a lack of self-efficacy and feelings of exclusion among agency workers (Ronnie 2019). In common with Bosman (2016) we found that precarious workers are demoralized, albeit in a very different context (Belgium).

Theoretical Implications

This study identified a precarious dimension of dualism rarely examined earlier in the literature discussing dual labour markets – that is employers’ use of sham agency arrangements to bifurcate their workforces to evade the law. This duality of workforce segmentation is found within single employing entities whereby essentially ‘permanent’ workers are often misclassified as ‘agency workers’. As this dubious practice of agency system spreads, new burgeoning, secondary labour markets are created flowing from workforce segmentations based on differences in contract types. These practices ostensibly have the same characteristics of workers in any secondary labour market - lower pay, fewer benefits, fewer rights and protections, and barriers to both individual advancement and collective organisation. However, what moves this beyond existing notions of a ‘secondary labour market’, widely discussed in

the existing literature, is the finding that not even the legally-required minimum constitutional obligations are fulfilled, especially in relation to benefit entitlements.

Policy and Societal Implications

The lack of obligation to provide statutorily required benefits by allowing a third party to take over 'employer' status enables client organisations to dispense with all non-wage related employment costs. This study revealed that the regulations restricting agency workers joining bargaining units at the client's site are of great importance to the deployment of temporary agency workers. This supports the assertion that maintaining regulation in the status quo may continue to boost temporary agency labour. If it is the case that workers hired through employment agencies should be given the right to a voice at the workplace, in line with the spirit of the ILO (International Labour Organisation) conventions. In particular, an entitlement to exercise collective bargaining rights is often curtailed because of the very temporary status of workers hired through these agencies. With precarious workers not having access to decent employment, this perpetuates economic and social inequality in Pakistani society.

Given the precarious legal foundation on which temporary work currently rests in Pakistan, it is recommended that a single definition of "employer" be adopted throughout the government bureaucracy based on the "economic realities" of the employment relationship. If the concerned authorities regard fair labour practices to be the core and spirit of the law, then policymakers should recognize the inexorable synergy of the issues facing agency workers. There may well be a need for a specific piece of legislation enacted to deal with issues surrounding agency employment more or less along the lines of acts in some European countries, such as the Employment Agency Act 1971 in Ireland. Wood (2016), albeit in the more heavily regulated UK context, shows that a flexible workforce is possible without precarity.

Furthermore, there is also a long overdue necessity to incorporate data concerning non-standard employment contracts, such as agency employment, in the Pakistan Labour Force Survey (NLFS), the only survey instrument of the government of Pakistan, to offset the restrictive typology currently being used. The lack of data on the extent of agency employment in the NLFS makes it difficult to structure any statistically-based research on issues surrounding agency employment practices in Pakistan.

Limitations and Future Research Directions

The research was dependent on the participants for their truthfulness in responding to interview questions, both factual and qualitative. Apart from the likelihood of managers' not providing an honest account of the situation, responses from other organisational stakeholders such as agency and union officials and agency workers may also be biased and value-driven. In addition to soliciting viewpoints from all concerned stakeholders and people directly affected by the issue being researched, the study was not developed with a capability to authenticate the interview responses of every single respondent. A further potential limitation is the fact that no secondary data in the form of organisational internal documents was obtained or reviewed to supplement the interview data. Again, given the extreme sensitivity of the research topic, acquiring such documents was deemed highly improbable. Hence, future, more astute researchers, could possibly conduct a large-scale investigation to make the basis of a quantitative analysis of the data to offset some of the limitations of this study.

Conclusion

This study points to the fact that dubious labour intermediaries are often used by the case study organisations to create a fraudulent arrangement in which the agency is considered

the legal employer even though the only real contact of the employee is with the client organisation, and the employment continues with the same user for long and even indefinite periods of time. By doing so, the employer violates a specific legal obligation, or a number of obligations, toward employees by misclassifying them as ‘agency workers’. This approach of pursuing simultaneously binary employment practices with different employee groups, illuminating dual labour market mechanism, is, therefore, not without potential inequities between different employee groups. Given that in most organisations permanent and agency workers are often engaged in the same job roles; it is therefore likely for them to engage in social comparisons (Walsh and Knox 2005). Thus, employment identities created within this system of employment were not stable, continuous, or unambiguous; rather they were dislocated and often institutionally obscured. Pakistan thus presents a picture of precarious work that shares many features in common with the rest of the world, in a large and growing economy, but with features unique to the Pakistani context.

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