

TALLINN UNIVERSITY OF TECHNOLOGY

School of Business and Governance

Department of Law

Mosebולatan Adu

**ANALYSIS OF AGENCY WORK IN U.S. AND GERMAN  
EMPLOYMENT LAW**

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Mosebolatan Grace Adu.....  
Student code: 183956HAJB  
Student e-mail address: moseadu@yahoo.com

Supervisor: Prof. Dr. Thomas Hoffmann  
The paper conforms to requirements in force

.....  
(signature, date)

Chairman of the Defence Committee:  
Permitted to the defence  
.....  
(name, signature, date)

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## **ABSTRACT**

The research on agency work examines the relationship between a Temporary worker and the company. The company provides the agent with the right power to carry out a third-party follow-up in his interests. Besides a general perception, agents also influence external environmental factors, mainly social and political administrations. A genuine agency is endorsed before the start of activities. Without formal approval, an individual cannot transform into an agent. In this situation, a legal contract is established, which is named an agency contract. Under this contract, it is clearly stated that one party is representing the other party in the expected assignments. Sometimes, this agreement can be a verbal contract with pure intentions of representing the other party. As a result of this, agency work is developing in the U.S. and several Organisation for Economic Co-operation and Development (OECD) to mitigate labor costs and increase flexible employment activities. However, temporary agencies have experienced massive growth globally with the use of Temporary workers. The European Union (EU) is trying to regulate the employment sector, which Germany has already adopted this process. When compared to the U.S., this sector is mostly unregulated, but there are some improvements taking place in states like California, Illinois, and Massachusetts.

The scope of the research revolves around an analysis of how agency work has impacted the employment market in Germany and the United States, compared to the temporary work condition and regulation. The aim is to study limitations and their relation to employment agencies. It further examines if worker's right has been violated, the direction of justice on employment-related issues using state laws or international laws in judging these types of cases and to interpret the Temporary agent law regulation using a legal approach to see if there is a need for an amendment that tends to suit both parties (employer and employee).

Keywords: Agency Law, Atypical, Employment Law, Employer, Employee, Labour, Precarious, Temporary worker.

## INTRODUCTION

The way the employee organization works varies from agency to agency. Still, the typical company handles employment requirements, such as hire and termination, employment financial resources and benefits, like wages, medicine, and social security. In general, the employer has only to specify the necessary number of employees, schedules, and a negotiable hourly rate. Employers at present have little obligation to the agency workers employment organizations provide to them.<sup>1</sup> Part of the primary duties of the agency is to ensure that workers can get their fundamental rights, like legal sick leave and paid vacation. Many employers adopt a cautious strategy to selecting employment agencies,<sup>2</sup> and they will contemplate the method in which the agency handles its staff coupled with how fast the supply of workers can be done and the charges involved in which the legal authority does not permit such act by them. This implies that some bad employers effectively utilize this absence of an obligation to agency workers to get the charges reduced by the agencies who are compromising with regards to workers' rights.<sup>3</sup>

However, the recruitment agency makes its revenues from the charges negotiated on behalf of the employee(s) and employer(s).<sup>4</sup> The agency often serves as a consultant for an employee who seeks employment advice. The recruitment agency has more than one employee for the most talented and professional positions. Other types of agency organizations, such as consultants or recruiters, help companies to recruit permanent employees. Many states have banned these kinds of agencies, and law enforcement agencies are only companies looking for professionals rather than accepting numerous random applications. They also have a wage deduction service that does not provide a guarantee of employment. If the temporary workers receive an offer to be employed by the employer, the agency may charge the customer an annual percentage for approval of the employee's loans in the rare circumstances to become a full-time position offered by the customer. Many agencies have pre-regulations to prevent this<sup>5</sup>, and several forms of temporary work are

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<sup>1</sup> Underhill, E. (2010). Should host employers have greater responsibility for temporary agency workers' employment rights? *Asia Pacific Journal of Human Resources*, 48 (3), 338-355. <https://doi.org/10.1177/1038411110382179>

<sup>2</sup> Report on temporary employment agencies and temporary agency work. [https://www.ilo.org/wcmsp5/groups/public/---ed\\_dialogue/---ed\\_dialogue\\_msu/documents/publication/wcms\\_541655.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---ed_dialogue_msu/documents/publication/wcms_541655.pdf)

<sup>3</sup> Fine, J. (2006). *Workers centers: Organizing at the edge of the dream*, Ithaca, NY: ILR Press. [Google Scholar]

<sup>4</sup> Stone, K. (2006). Legal protections for atypical employees: Employment law for workers without workplaces and employees without employers. *Berkeley Journal of Employment and Labor Law*, 27 (2), 251-286.

<sup>5</sup> Russell Huebsch. (2019). How Staffing Agencies Works, <https://smallbusiness.chron.com/staffing-agencies-work-3084.html>

available. The more traditional form is casual labor, which is still prevalent in construction and agriculture, particularly with a low level of skills. Direct jobs with fixed-term contracts are becoming increasingly familiar.

Therefore, these contradictory views have often been set up as a debate, and some authors have framed them as a dilemma that agencies face in dual labor markets. Goldthorpe argued that both inclusion and exclusion are viable strategies for unions to maintain their power in the labor market:<sup>6</sup> in the test of the fragmentation strategies of employers, unions can "strive to support the class orientation, which should entail opposing duality as much as possible" accepting dualism and backing away from the defence on the specific partial interests of its registered members, hoping that they may protect these interests so far as they are undermined through dualism by the shock-absorbing function performed by the secondary workforce.<sup>7</sup>

The research problem of this thesis will be to analyze the effect of agency work on the employment market in Germany and the U.S. There are legal principles and status that can help agency companies maintain relationships to run the organization successfully. Data from Europe show similar trends. Although comparative statistics are scarce, it is estimated that employment through temporary aid agencies could account for around 2% of the workforce in the United Kingdom, 2.7% in France, and 1.4% in Germany.<sup>8</sup> The lengthy vacancies suggest that it is still difficult for many businesses to fill positions. Although it cannot be assumed that there is a general lack of jobs or qualified workers, the technical, manufacturing, healthcare, and nursing professions have significant tensions and barriers.<sup>9</sup> The method to which this issue will be solved is directed at using the qualitative comprehensive legal view to apply various recognized legal articles. The use of comprehensive legal articles outlines how different jurisdictions in the U.S. and Germany have impacted the employment law.

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<sup>6</sup> Chiara Benassi Lisa Dorigatti. (2014). Straight to the Core — Explaining Union Responses to the Casualization of Work: The IG Metall Campaign for Agency Workers. *British Journal of Industrial Relations*, 53 (3), 533-555, 2015

<sup>7</sup> *Ibid*

<sup>8</sup> Lars W.Mitlacher. (2007). The Role of Temporary Agency, Work in Different Industrial Relations Systems - A Comparison between Germany and the USA. *British Journal of Industrial Relations*, 45 (3), 581-606, <https://doi.org/10.1111/j.1467-8543.2007.00629.x>

<sup>9</sup> <https://ec.europa.eu/eures/main.jsp?catId=2641&countryId=DE&acro=lmi&lang=en>

It is essential to talk about the countries for research which are the U.S. and Germany. In Germany, about one million people, or nearly 3% of all employees, work as temporary workers in agencies.<sup>10</sup> The primary recruitment model found in Germany is very dynamic: only 15% of all temporary work relationships last more than 18 months; the average wage for temporary agency employees was 42% lower than that of core employees, a tiny percentage of the base factor.<sup>11</sup> The organizational form of workers' agencies in the U.S. is a form of institutions or persons independent of public authorities, providing jobs resources and applications and providing employment services to make them accessible to a third party and providing information that is not intended to fit unique job offers and applications.

However, the objective of this Bachelor thesis seeks to understand the legal analysis of agency workers and its' impact on employment law. As there's an inherent irregularity in power in the working relationship, employment law has developed to ensure employees against maltreatment of power by exploitative employers. So from a worker's perspective, the significance of employment legislation is the broad scope of protection it manages.

The thesis is split into three chapters for a better analysis of the topic. The first chapter of the thesis is assigned to the definition and formation, which talks about why there is a need for agency work and the aftermath effect. It further explains the theoretical Framework based on the argument of different scholars on how agency worker has been making an impact in the employment market. Chapter two looks into how the agency law operates, a comparison of laws for protecting temporary workers, and principles in the research countries (U.S. and Germany). Besides, the chapter emphasis more on the research question of whether Temporary workers pose an unemployment risk and if their rights have been violated. Chapter three covers the methodology and findings to the research questions, while the last part gave an in-depth conclusion, and a possible recommendation for future research was offered.

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<sup>10</sup> Hanesch, W. (2017). Reform of temporary agency work and service contracts in Germany. *EUROPEAN SOCIAL POLICY NETWORK ...* ESPN Flash Report 2017/05

<sup>11</sup> *Ibid*

## 1. THE CREATION AND THE IMPACT OF AGENCY WORK

Atypical, precarious, and low-wage businesses have increased in Western political economies over the past 30 years. This phenomenon challenged the ability of traditional actors, such as trade unions, to represent workers. Agency work arises when a temporary work agency posts temporary workers from one company to another for a short-term assignment.<sup>12</sup> A wide range of literature has pointed to factors that make union representation difficult for temporary workers, such as the heterogeneity and vulnerability of these workers and their dispersion along the value chain. However, a controversial research issue remains regarding the willingness of unions to participate in representing extraordinary workers.<sup>13</sup> Under mounting economic pressures, the agency uses outstanding workers as a buffer to protect their core constituencies from market volatility and cost-cutting pressure. Agency revitalization theories argue that unions increasingly seek to hire temporary workers and bargain on their behalf. Their inclusion has been interpreted as a reaction to an environment increasingly hostile to work. To restore bargaining power, unions boost recruitment and mobilization efforts.<sup>14</sup>

In the last decade, employment in a temporary agency company has doubled in Europe at least. Temporary employment agency work in Scandinavia, Spain, Italy, and Austria has increased at least five times; it represents 1,3% of agency workers in the E.U. by the end of this decade.<sup>15</sup> Employers try to cut the people to save on costs as minimum wages increase. This will undoubtedly increase unemployment in the society. The hiring of more workers for the same salaries will help raise the state's jobs instead of increasing minimum wages. With the wages rising, the inflation rate will then also increase the cost of all commodities. There are particular objectives of the environmental assessment regulatory framework, namely:

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<sup>12</sup> <https://www.ilo.org/sector/activities/topics/temporary-agency-work/lang--en/index.htm>

<sup>13</sup> Ruoff, Bea. (2016). Labour market developments in Germany: Tales of decency and stability, *Global Labour University Working Paper*, No. 39, International Labour Organization (ILO), Geneva

<sup>14</sup> Bosch G., Lehdorff S., Rubery J. (2009). European Employment Models in Flux: Pressures for Change and Prospects for Survival and Revitalization. In: Bosch G., Lehdorff S., Rubery J. (eds) *European Employment Models in Flux*. Palgrave Macmillan, London. 1-56, [https://doi.org/10.1057/9780230237001\\_1](https://doi.org/10.1057/9780230237001_1)

<sup>15</sup> Dr Eugenia Markova. (2008). Agency and migrant workers Literature review. *Working Lives Research Institute* (London Metropolitan)



- Tightening penalties against unauthorized agencies
- Raising the professional competence of stakeholders in the industrial sector
- Ensure that terms and processes are applied.
- Provide flexibility.<sup>16</sup>

## **1.1. Theoretical Framework on the impact of Agency worker in Employment law**

This research paper spreads out the difficulties in organizing such a methodology on a significant government-regulated environment agency in the U.S. and Germany. It portrays the significant components of an essential requirement approach, just as the significant hierarchical advancements that were important to establish it. The article on Taylor survey states that, in July 2017, a 'Present-day Working Practices' was distributed.<sup>17</sup> Driven by Matthew Taylor, the Audit meant to consider the ramifications of new arising plans of action for both laborer rights and business commitments was to shape their investigation of the Taylor approach by reference to the developments of 'decision' utilized in the Audit and the restricted degree allowed for specialist 'voice.' Specifically, we notice avoidance of worldwide work principles pertinent to 'fair work' and an absence of thoughtfulness regarding crucial common liberties. Recognizing methodological blemishes in the Report and zeroing in on three focal zones of change: business status; zero-hours contracts (Z.H.C.s), and workers voice and portrayal, the article fundamentally investigations some of the proposition set forward, reasoning that a considerable lot of the Taylor Survey suggestions are risky, yet hazardous, with possibly genuine deregulatory repercussions for U.S. laborers whenever actioned upon and executed by the current Government<sup>18</sup>. To further the argument, the method between individuals who perform work and the individuals who give work (agency) come in a wide range of structures. This paper describes the significant work approach being used today, profiles the nonstandard labor force, examines a few legal inquiries regarding how rigid standards of work and business law apply to nonstandard work strategy, sums up discoveries distributed in

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<sup>16</sup> Eylül, D. (2018). Minimum Wage as An Ethical Issue European Journal of Multidisciplinary Studies, [S.l.], 3 (1) 26-35, ISSN 2414-8385. Available at: <<http://journals.euser.org/index.php/ejms/article/view/3093>>.

<sup>17</sup> Bales, K. (2018). 'Voice' and 'Choice' in Modern Working Practices: Problems with the Taylor Review. 47 (1), 46–75.

<sup>18</sup> *Ibid*

the previous 20 years about the wellbeing and dangers for laborers in nonstandard work ideology, diagrams ebb, flow research plan and employee(s) well-being.<sup>19</sup>

The article on Guy Standing (2011) records the precariat as a new class to the numerous activities attempted in youth concentrates since the 1980s to sort out the changing examples of youth business. While Standing's emphasis on the experience of divided and casualized work in numerous economies which presently ensnares youth have esteem, there are huge issues with a record that features a few troubles in intuition into some degree preoccupied ways about 'underlying' change measures that don't adequately think about the topic of time. The instance of Australia's work market guideline since the 1890s is utilized to test the legitimacy of Standing's attention on the oddity of neoliberalism after mid-1980 to clarify the development of tricky business. Standing states that instability is key to the 'new precariat' because they do not have the various types of safety by the 'common laborers' after 1945. It also features the requirement for an interpretative system mindful to draw out term part of state strategy and the interaction of chronicled and neighborhood measures. The case is then made for building up an authentic social science that draws in with what is presently occurring regarding youth and their business security.<sup>20</sup>

Another factor to consider is the hard work which is progressively viewed as the new 'standard' to which business and social security frameworks should change. This paper investigates the inconsistencies and pressures that emerge from various cycles of standardization driven by friendly strategies that decommodify and reclassify work. An extended structure of declassification is introduced that recognizes how the standard employment relationship (S.E.R.) might be stretched out and flexibility to remember those for tricky work, drawing models from a new investigation of unsafe work across six European nations. These declassification measures are discovered to be both fractional and, at times, existing together with enactment strategies that position unstable work as an option in contrast to joblessness, in this way reclassifying work. Despite these difficulties and inconsistencies, the paper contends that another vision of S.E.R. change guarantees a more critical issue than considering alternative approach situations that abandon employers' standards and depend on state grants so that precariousness will be reduced.<sup>21</sup>

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<sup>19</sup> MD, J. H. (2016). Nonstandard work arrangements and worker health and safety. 60 (10), 1-10.

<sup>20</sup> Bessant, J. (2017). Young precariat and a new work order? A case for historical sociology. 21 (6), 780-798.

<sup>21</sup> Rubery, J. (2018). Challenges and Contradictions in the 'Normalising' of Precarious Work. 32 (3).

### 1.1.1. Framework in Germany

The controversy over the deployment of temporary workers in Germany is like in other countries. Temporary work has been linked to increased labor-market duality, increased job flexibility, improved labor-market access, and the creation of jobs. But given the country's unique performance, the German discussion's content differed somewhat from that of other countries. Germany was still able to stand firm during the Great Recession of 2008-2009.<sup>22</sup> Without an increase in unemployment or a decline in the number of jobs, it successfully negotiated economic problems. The experience may have been a reflection and an influence on the contemplation of the key players in temporary employment – syndicates, employment boards, and employers. The work side is more acceptable to this, and employers are less incentive to use temporary work as a low road strategy for various reasons.

Germany is generally seen as a "dualized" economy driven by a unique and stable "insider" alliance in the assembling areas. In this article, that image is tested as an assessment of the political economy of the outsider cordial 2014 with the lowest wage permitted by law Act, utilizing popular assessment information, archive examination, and subjective meetings shows how prior dualizing changes prompted unintended negative criticism impacts: First, general assessment responded adversely to expanding disparity in the years going before the presentation of the lowest pay permitted by Law. Second, a striking movement is found among worker's guilds toward the help of the most insufficient income permitted by law, even in assembling. Albeit the danger of low-wage rivalry and flexibilization assumed a part, worker's guild fortitude was at any rate as significant. Those endogenous elements met up in a self-sabotaging measure unfurling over a generally brief timeframe. Potential elective clarifications are investigated, including traditional sectarian, governmental issues, party rivalry, and employer inclinations.<sup>23</sup>

In Sperrmann's article, which talked about the aftermath of the deregulation of agency work resulting from the Hartz reforms in Germany, where the temporary agency work experiences a development. The new function of agency work experience extensive development after deregulation, the exceptional utilization of agency work by large stock-listed organizations, and impending primary lack of experience in the workforce. However, agency work ends up being a

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<sup>22</sup> Rinne, U., Zimmermann, K.F. (2012). Another economic miracle? The German labor market and the Great Recession. *IZA J Labor Policy* 1, (3) <https://doi.org/10.1186/2193-9004-1-3>

<sup>23</sup> Marx, P. (2017). Dualization is Destiny? The Political Economy of the German Minimum Wage Reform. 45 (4).

booster and the main factor of workforce trends and an early sign of recessions. The steppingstone theory is just acknowledged for prolonged haul unemployment after the Hartz reforms. The teaching of staffing specialists and workshop programs for agency workers are on the staffing organization's plan and will be much more significant in the coming years because of a shortage in structural skills and abilities.<sup>24</sup>

Article on OECD nations states that the idea of independent work is changing the most. Self-independent work is expanding comparatively, with independent work and subordinate representatives regularly being related to the advancement of gig economy work and elective work procedure. We think minimal about this changing structure of occupations. Drawing on impromptu reviews run in the U.K., U.S., and Italy, it was reported that independent work is considered not quite the same as independent work with representatives, being a moderate status among business and underemployment, and for a few, turning into another outskirts of underemployment. Its spread begins a substantial interest for social protection, which once in a while meets a satisfactory inventory given the instructive imbalances of these positions. Implementing the lowest pay permitted by law enactment on these positions and reassessing the special duty treatment offered to independent work could debilitate maltreatment of these situations to conceal accepted ward business occupations. Improved proportions of work slack ought to be created to recognize that well beyond unemployment, a portion of the independent work and elective work procedure present in the present work market is putting descending tension on compensation.<sup>25</sup>

### **1.1.2. Framework in the U.S.**

American researchers have argued that the extensive use of temporary workers inadvertently influences permanent workers' working conditions and, in particular, the use of permanent workers. It can increase employees' level of responsibility and demand permanent oversight without increasing their pay. This could lead to increased workload perceptions among permanent employees. The work can be temporary as well. The nature of the tasks assigned to permanent workers may also change by temporary employees. The impacts on development opportunities and internal mobility may be of concern for permanent employees. The group of potential competitors may feel like they were increasing, especially those at the bottom of the corporate hierarchy.

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<sup>24</sup> Spermann, A. (2012). The New Role of Temporary Agency Work in Germany, Bouncken, Ricarda B. u. Lutz Bellmann u. Manfred Bornewasser (ed.), Die neue Rolle der Zeitarbeit in Deutschland, Beiträge zur Flexibilisierung, Band 3, München und Mering. 203-224.

<sup>25</sup> Boeri, T. (2020). Solo Self-Employment and Alternative Work Arrangements: A Cross-Country Perspective on the Changing Composition of Jobs. 34 (1), 170-95.

Workers can sense that they easily substitute them for organizations with many temporary workers as permanent workers, which may increase the sense of job insecurity. Conversely, permanent employees may feel that they cannot trust their organization or that they are in violation of their psychological contract. You can then respond with less commitment and unproductive performance to the organization.<sup>26</sup>

According to Fine Janice article, in the most recent decade, urban communities, provinces, and states across the U.S. have authorized higher wages, payment of sick leave and family leave, protection of domestic staff, wages on theft laws, the ban the box expulsion of inquiries concerning conviction history from requests for employment, and reasonable planning laws. Insecure employees don't confide in the Government to approach and report work law infringement. The article contends that while expanding the size of the work, inspectorate and participating in essential implementation are fundamental, and they are not adequate. It further maintains that co-implementation, wherein government accomplices with associations that have industry ability and associations with employers who feel insecure, can deal with the moving and decentralized constructions of twenty-first-century creation, which were unequivocally intended to avoid 20th-century laws and requirement capacities. The article expects to add a more extensive comprehension of the job of associations in requirement and the conditions in which their viability can be expanded. It presents many extension conditions and components and analyzes observational instances of co-authorization in Austin, Los Angeles, and San Francisco. The primary discoveries are that co-requirement is most suffering when (1) government agencies and specialist associations perceive each other's novel limits, instead of endeavor to fill in for each other (2) the exertion centers around a particular industry; and (3) the joint effort gets solid political help. Supporting the effects of co-implementation is found to require more critical formalization of the organization and financing streams.<sup>27</sup> The next chapter will explain various laws binding in each country, if there are laws that reduce unemployment risk to Temporary workers, and whether their rights are being violated or limited.

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<sup>26</sup> De Cuyper, N., De Jong, J. P., De Witte, H., Isaksson, K., Rigotti, T., & Schalk, R. (2008). Literature review of theory and research on the psychological impact of temporary employment: Towards a conceptual model. *International Journal of Management Reviews*, 10 (1), 25-51. <https://doi.org/10.1111/j.1468-2370.2007.00221.x>.

<sup>27</sup> Fine, J. (2017). Enforcing Labor Standards in Partnership with Civil Society: Can Co-enforcement Succeed Where the State Alone Has Failed? 45 (3).

## **2. ARE AGENCY WORKER(S) VULNERABLE TO UNEMPLOYMENT**

Working temporarily and hiring pressures, perceptions of injustice become more susceptible than begin a permanent worker. Many temporary agency workers work in unjust employment conditions and earn less compared to workers doing similar assignments under direct-hire arrangements. This is due to many factors, particularly the failure in employment regulation practice established for standard employee-employer employment arrangements to be fully applicable in such indirect employment arrangements.<sup>28</sup> These variants cause a disadvantageous psyche. These comparisons can dominate European studies due to the absence of suitable data sets in other nations and adverse results between temporary workers and casual workers.<sup>29</sup>

### **2.1. What Are the Laws for the Protection of Temporary Workers?**

The principles guiding the agency law helps organizations to act in the business environment. It enables Organizations to maintain relationships by having board members (agents) to operate the company successfully. Agency laws ensure that organizations take accountability for their actions. This ensures that the board members should act and take action in the interest of the organizations, and they can apply the business judgment rule to deal with a bad situation.<sup>30</sup> This also helps protect the shareholders so that they remain at zero risk of losing any company's investment. Thus, organizations can operate with ease and get into contracts.

#### **2.1.1. Law for Agency Worker in Germany**

The controversy over the deployment of temporary workers in Germany is like in other countries. This German Law reflects a trend in many countries where labor authorities limit temporary and freelance (Freiberufler) employees in local businesses. Workers' rights and access to protected labor laws are at the heart of this movement. If a worker is retained as an employee for a long time

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<sup>28</sup> Underhill, E. (2010), *supra nota* 1.

<sup>29</sup> Rubery, J. (2018), *supra nota* 21.

<sup>30</sup> Cardona, M. S. (2019). Activist Learning and Temporary Agency Workers in Quebec, 2019 (164), 37-48  
<https://doi.org/10.1002/ace.20354>

and depends on the company, he is entitled to full employment status. Even if the workers are initially given a provisional and contractual role, more and more workers demand labor rights, benefits, and payments. Firms that operate across borders and rely on agency outsourcing should be aware of these changes and adjust their recruitment practices.<sup>31</sup>

A further matter must now be decided by the German Federal Labor Court. The anti-unfair dismissal legislation justifies special measures, depending on the size of the institution concerned. This is based on the requirements of the approximations to Member States' collective repetition laws laid down in Council Directive 98/59/E.C. of 20 July 1998. The Law on Temporary Agency Work (Arbeitnehmerüberlassungsgesetz - AÜG) has been a topic for modifications that came into force on 1 April 2017.<sup>32</sup> The new provisions legally allow temporary workers to be hired permanently after 18 months and give temporary workers the right to equal pay. The original temporary worker may also be appointed again after three months from the cessation of his engagement. However, the new provisions restrict the ability of parties to collective bargaining to deviate from this principle.<sup>33</sup>

Temporary work has been linked to increased labor-market duality, increased job flexibility, improved labor-market access, and the creation of jobs. But given the country's unique performance, the German discussion's content differed somewhat from that of other countries. In general, labor market segmentation is the difference between fixed-time and temporary employment contracts central to the agency. Fixed-term contracts mainly concern employees and trainees in the private sector, most of whom are young staff in the public, academic or social sectors. For their part, temporary employees mainly focus on core manufacturing activities and certain agency services with more limited transition possibilities to permanent employment. Fixed-term contracts remain stable at approximately 7 to 8 percent, even though the overall figure for permanent apprenticeships excludes roughly the same share. Since 2001, the agency's work has grown, but it represents around 2.5% of total employment, as previously pointed out. In the mid-2000s, the manufacturing sector's growth has been mainly due to labor-market reforms and related

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<sup>31</sup> <https://shieldgeo.com/new-regulations-for-hiring-temporary-workers-in-germany-through-a-third-party/>

<sup>32</sup> [https://knowledge.leglobal.org/wp-content/uploads/sites/2/LEGlobal-Employment-Law-Overview\\_Germany\\_2019-2020.pdf](https://knowledge.leglobal.org/wp-content/uploads/sites/2/LEGlobal-Employment-Law-Overview_Germany_2019-2020.pdf)

<sup>33</sup> Janine Krupa. (2017). Revision of the Law on Temporary Work, <https://blogs.dlapiper.com/employmentgermany/2017/02/09/revision-of-the-law-on-temporary-work-from-1-april-2017/>

company restructuring. However, growth in other areas dominated this acceleration (part-time work and part-time marginal job).<sup>34</sup>

Germany's current employment policies are characterized by a wave of four reforms to the labor market between 2003 and 2005 that fostered a series of programs from employment promotion.<sup>35</sup>

- The first was establishing temporary work (personnel service agents) and improving working conditions for temporary employment in commissioning service agencies.
- Second, the small and medium jobs and the so-called "Ich-AG" have been implemented; Low-income employees benefited from special regulations regarding taxes and social insurance. The unemployed were capable of setting up their businesses with the help of the Government for three years
- Thirdly, the Federal employment agency (F.E.A.) was re-established. Decentralized labor structures and centers replaced a central system of control. Personal case employers on one-stop can deliver both municipal and employment services.
- Fourthly, the social assistance system combined unemployment benefits. In reaction to the global economic crisis, then introduced a series of measures.

The Employment and Stability Guarantee Act was adopted in 2009 to promote short-term work, temporary jobs, technical and training. In 2009, drafted a significant reform of the minimum wage system and an extensive legislative minimum wage in 2012 and from 2015 onwards. Two steps have been taken to enhance labor market flexibility. The first initiative, launched in 2012 and focusing on women, single parents, older adults, and immigrants, is a Qualified professional initiative. The second issue concerns the 2007 family policy.<sup>36</sup>

### **2.1.2. Law for Agency Worker in the U.S.**

Temporary employees have the right to receive a minimum salary that is commensurate with their skills and expertise. Employment agencies receive their pay from the companies they represent, and workers' wages are paid not by the employer but by the agency. In some cases, the agency can quote the worker a lower hourly rate so that the amount it receives from the customer is not

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<sup>34</sup>Addison, J.T., Teixeira, P., Grunau, P. and Bellmann, L. (2019). "Worker representation and temporary employment in Germany: The deployment and extent of fixed-term contracts and temporary agency work", *Journal of Participation and Employee Ownership*, 2 (1), 24-46. <https://doi.org/10.1108/JPEO-11-2017-0003>

<sup>35</sup> [https://www.ilo.org/wcmsp5/groups/public/---ed\\_emp/documents/publication/wcms\\_613369.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_emp/documents/publication/wcms_613369.pdf)

<sup>36</sup> Katharina Zimmermann, Venesa Fuertes. (2013). Employment Policy Implementation Mechanisms In Germany And The United Kingdom, international labour agency, 77 <https://EconPapers.repec.org/RePEc:ilo:ilowps:994856443402676>



disclosed. They use agencies to employ staff to ensure that employees are paid the correct salary for their business practices.<sup>37</sup> The table below shows laws for protecting Temporary employees in the U.S.

<b>FUNCTION</b>	<b>NAME OF LAW</b>	<b>FEDERAL REGULATORY AGENCY / AGENCIES</b>	<b>CONTROL EXERCISED / IMPLEMENTATION</b>
<b>Wages and Hours of Work</b>	The Fair Labor Standards Act	Wage and Hour Division	Establishes minimum wage, overtime pay, child labor regulation, recordkeeping through inspections. Compliance support provided.
<b>Safety and Health Standards</b>	Occupational Safety and Health Act	Occupational Safety and Health Administration (OSHA)	Workplace inspections and investigations. Compliance assistance and cooperative programs available
<b>Family and Medical Leave</b>	Family and Medical Leave Act	Wage and Hour Division	Workplace and recordkeeping inspections.
<b>Whistleblower Protection</b>	Most labor and safety laws as well as environmental laws	Occupational Safety and Health Administration (OSHA)	Protection granted to employees under various Whistleblower rules. Reinstatement of terminated employees and awarding payment of back wages by the employer

Figure-1 Agency law<sup>38</sup>

Principles and laws can help agencies and companies to maintain relationships to run the organization successfully. The Worker Power Recovery Act 2020 was introduced on July 16, 2020, by Representative Joe Kennedy III (D-MA) and Representative Emmanuel Cleaver (D-MO).<sup>39</sup> It's

<sup>37</sup> Patti Richards. (2019). Rights of Agency Workers. <https://smallbusiness.chron.com/rights-agency-workers-46817.html>

<sup>38</sup> Stone, K. (2006), *supra nota* 4

<sup>39</sup> <https://cleaver.house.gov/media-center/press-releases/rep-cleaver-kennedy-introduce-restoring-worker-power-act>

the first federal bill to recommend regulating temporary agencies in more than 20 years, and it's a significant victory for temps and our allies. The bill would drastically reduce subcontracting in common ways by guaranteeing temporary workers:

- Equal pay for equal work
- Equal Training for the Safer Workplaces
- The right to know all information related to work assignments.
- the true path of lasting action

The bill is still far from Law. However, if enacted, it would give temporary workers additional rights and the ability to enforce those rights.

An agency worker is permitted to the same primary conditions that they would have had to do the same job had they been hired directly by the recruitment company. This only applies once they have assumed the same role, whether on one or more assignments, with the same tenant for 12 consecutive calendar weeks. There are complex rules regarding calculating the qualifying "hour" for 12 weeks, so it may be helpful to speak with legal counsel if you have any doubts as to whether an individual has reached the qualification period. The corresponding terms and conditions that agency workers are entitled to after the qualification period are Wage (including base salary, vacation pay, or bonuses related to individual performance, commission, or overtime):<sup>40</sup>

- Duration of work time
- Night work
- Meal break
- Rest period and
- yearly vacation.

Provided that the eligibility requirements are met, employees of the agency are entitled to receive S.S.P. Again, the obligation to pay this amount is the agency's responsibility, but commercial arrangements may dictate that the recruiting company should cover the cost. Any improved sickness wage for the company provided by the recruitment company will not come under Arab West Reports, so the agency worker will not be entitled to this. A compensation program that offers a total of \$150,000 and potential medical benefits to employees (or some survivors of) in the Department of Energy, its contractors, and subcontractors due to cancer due to radiation exposure or certain illnesses caused by exposure. The Energy Official Labor Infrastructure

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<sup>40</sup> Charlotte Allery. (2018). What are the legal rights of agency workers? <https://www.personneltoday.com/hr/what-are-the-legal-rights-of-agency-workers/>

Compensation Program is a compensation program. The Department of Justice considers that it is eligible for compensation as uranium workers following Article 5 of the Radiation Exposure Compensation Law for beryllium or silica incurred during duty and the \$50,000 lump sum and potential medical benefit to individuals (or some survivors).<sup>41</sup>

### 2.1.3. Comparison of Laws and The Employment Market

The table below shows the difference between the employment market in Germany and the U.S.A.

	US JOB MARKET	GERMAN JOB MARKET
Population	325 Million	82 Million
Unemployment rate	3.9%	3.5%
no. of unemployment	12675000	2870000
No. of open jobs	6.7 M	1.2 m

Figure-2 comparison between U.S. and Germany <sup>42</sup>

In the U.S., jobs provided by temporary agencies make a new record, and last year, agencies supplied 3.2 million jobs to individuals <sup>43</sup>. It has been observed that employment through a temporary agency has grown four times faster in the U.S., considering the overall employment environment. The rise has been estimated since the end of the Great Recession in 2009. America is a big country, but studies show that only three states, including California, Illinois, and Massachusetts were able to implement worker protection laws for Temporary workers. This shows that legal protections for temporary workers don't prevail in many of the U.S. Studies show that temporary workers in the U.S. have primarily been subjected to abuse on the job, harassment, injury, and illegal conduct. Temporary workers in many manufacturing and construction companies of the U.S. face problems due to low pay, no incentives and benefits, and risk of injury due to constant hard work. There is a considerable need to improve labor standards immediately. Between 2014 and 2017, the U.S. had hired many temporary workers in "Freight, Stock, and Material Movers." The occupation involves frequent freight movement and stock, and the chances

<sup>41</sup> <https://www.dol.gov/general/aboutdol/majorlaws>

<sup>42</sup> Madeline. (2008). Recruiting in Germany vs. USA: What Are the Differences? <https://www.talention.com/blog/recruiting-in-germany-vs.-usa>

<sup>43</sup> National employment law project, 2019. Temporary Jobs Are Growing Fast, But Temp Workers Have Few Legal Protections. Available at: <https://www.nelp.org/news-releases/temporary-jobs-growing-fast-temp-workers-legal-protections/>. Accessed on: April 30<sup>th</sup>, 2021.

of injury are higher than in other professions. It has been observed that the injury rate is 3.4 times the average rate in that occupation. Besides this, the median hourly wage for temporary workers in the U.S. is low compared to permanent workers. According to German Law, temporary employees must be equally paid as permanent employees after nine months of hire. This shows that German laws are better than U.S. laws for the protection of temporary workers.

Temporary workers in the U.S. for their full-time service have been paid 41% less than permanent employees. In terms of benefits, only 12.8% of temporary workers have been provided with health insurance by the employer compared to 50% of workers in standard work arrangements<sup>44</sup>. Unlike Germany, temporary workers in the U.S. have faced wage theft more frequently than permanent workers. Moreover, they are at a greater risk of injury on the job when compared to permanent workers.<sup>45</sup> Discrimination based on race and gender is becoming more popular in U.S. employment. It has been found that the Temporary agencies and clients are using code words to favor or disfavor any particular employee based on race and gender. Studies have shown that the U.S. is among other developed countries with the weakest regulation for the protection of temporary workers. It is recommended to include Germany's equal pay and equal benefits regulations for the temporary worker in the U.S. laws. Besides this, every temporary worker must be given equal rights to report any abuse or illegal act with full support from management and higher authorities that can be achieved through policy amendments.

## **2.2. What Constitutes A Restriction or Violation of Temporary Worker(s) Right?**

Under the Directive 2008/104/E.C., which was implemented by the European Parliament whereby the E.U. Temporary and Agency Work Directive has established a right of equal treatment on working time and pay for agency workers compared to direct workers.<sup>46</sup> Likewise, in the U.S., there are currently laws in place to protect the rights of Temporary workers in some states like:

- **ILLINOIS:** The Temporary Work Services Act and Day were passed in 2005 and set out fundamental rights for temporary workers.<sup>47</sup> This included the right to know who they are

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<sup>44</sup> Madeline. (2008), *supra nota* 42

<sup>45</sup> Smith, C. K., Silverstein, B. A., Bonauto, D. K., Adams, D., & Fan, Z. J. (2010). Temporary workers in Washington state. *American journal of industrial medicine*, 53 (2), 135-145.

<sup>46</sup> McGaughey, Ewan. (May 18, 2010). Should Agency Workers Be Treated Differently? LSE Legal Studies Working Paper No. 7/2010, Available at SSRN: <http://dx.doi.org/10.2139/ssrn.1610272>

<sup>47</sup> [https://www.seyfarth.com/dir\\_docs/publications/Complyingwithlaborservicesact.pdf](https://www.seyfarth.com/dir_docs/publications/Complyingwithlaborservicesact.pdf)

working for and receive their writing salary rates. The Law was amended and enlarged in 2018 through the Responsible Job Creation Law, which again sanctioned the nation's first protections against discrimination, wage theft, and penetration.

- **CALIFORNIA:** California's temporary worker protections hold host employers accountable when recruitment agencies fail to pay their workers' salaries or violate safety. Assembly Bill 1897 was endorsed into Law in 2014 despite strong protests from the employment industry.<sup>48</sup> The industry has fought explicitly against providing information, including "employee hours" and "customer names" on their employees' salaries.
- **MASSACHUSETTS:** The Temporary Workers' Right to Know Act, passed in 2013, is seen as a model for other state legislation. It requires recruitment agencies to give employees written notice that includes basic information about any job they are sending the employee to.<sup>49</sup> This consists of the pay rate and whether the position requires clothing, tools, licenses, or special training. Despite the essential and potentially life-saving information this Law provides, the employment industry has vehemently opposed and lobbied against its passage.

There are various benefits available to employees but which are limited to temporary workers in the U.S. Some of them will be explained below:

In the U.S., Discrimination in employment is banned by several federal statutes. The Equal Pay Act of 1963 expects employers to pay the same wages for similar work regardless of gender.<sup>50</sup> The Age Discrimination in Employment Act of 1967 (ADEA) is against discrimination due to age, while the Americans with Disabilities Act (A.D.A.) proscribes employment discrimination based on the physical appearance of an employee.<sup>51</sup> Under the Title VII of the Civil Rights Act of 1964, it kicks against ethnics, nationality, belief, culture, gender, and race discrimination in employment.<sup>52</sup> With these statutes, temporary and permanent workers should now be treated in the same accord, which will make the working environment to be free from discrimination as long as they have the prerequisites.<sup>53</sup> However, there is a limit in size and coverage for the anti-discrimination law. In a bid to reduce the employee workforce, employers tend to group their

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<sup>48</sup> <https://www.propublica.org/article/california-governor-signs-bill-to-protect-temp-workers>

<sup>49</sup> <https://malegislature.gov/Laws/SessionLaws/Acts/2012/Chapter225>

<sup>50</sup> 29 U.S.C. § 206(d) (2000).

<sup>51</sup> 29 U.S.C. §§ 621-634 (2000).

<sup>52</sup> 42 U.S.C. §§ 2000e-2000e-17 (2000).

<sup>53</sup> Tarantolo, D. (2006). From Employment to Contract: Section 1981 and Antidiscrimination Law for the Independent Contractor Workforce. *The Yale Law Journal*, 116(1), 170-215. [doi:10.2307/20455717](https://doi.org/10.2307/20455717)

workers as independent contractors.<sup>54</sup> So in this situation, the temporary employee can sue the temporary agency and company where he or she suffers job discrimination.<sup>55</sup> The courts, on the other hand, state that before it can be found liable, the employee must prove that the agency is aware of the discrimination. Therefore a temporary worker is secured against discrimination at the workplace and must also make his grievances known to the temporary agency to get the benefit of suing both entities.

There is the unemployment insurance benefit that comes into effect as a result of the agreement and harmonization between the federal and state governments. With the availability of the Federal Unemployment Compensation Act, the states have an opportunity and avenue to create and formulate their plans. Generally, states specify their mode of qualification, requirement, eligibility, benefit, prerequisites, and duration of the benefit. However, the State requirement often seems to be difficult for the temporary workers to meet.<sup>56</sup> For the temporary workers to qualify for unemployment insurance, it is required of them to have worked or being employed for a specific period and must have earned more than the minimum wage. It often occurs that Temporary workers do lack the required minimum wages or hours that will make them qualify for unemployment insurance.

Another benefit worth focusing on where the Temporary workers right are limited the Family and Medical Leave Act (FMLA). This Act enables the employee to be granted unpaid leave for up to twelve weeks by the employer, which includes leave to care for a sick parent, child or spouse, adoption or birth of a child.<sup>57</sup> Under this Act, the employee does not receive any wages from the employer during the leave period, but the employer must continue the health plan coverage if available. However, several temporary workers are prohibited from the FMLA benefit due to its stringent eligibility conditions. To be qualified, an employer has to hire at least fifty employees above within the space of twenty weeks, and the employee also must have worked and completed 1250 hours for at least twelve months. So, as a result of the conditions stated above, it is difficult for the Temporary workers to meet the requirements and therefore cannot be qualified to enjoy this

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<sup>54</sup> See *Arbaugh v. Y & H Corp.*, 380 F.3d 219 (5th Cir. 2004), rev'd and remanded, 126 S.Ct. 1235 (2006),

<sup>55</sup> *Magnuson v. Peak Technical Servs., Inc.*, 808 F. Supp. 500, 507 (E.D. Va. 1992); *Amomore v. Merrill Lynch, Pierce, Fenner & Smith Inc.*, 611 F. Supp. 344, 348 (D.C.N.Y. 1984). See generl Jason E. Pirruccello, *Contingent Worker Protection from Client Company Discrimination: Statutory Coverage, Gaps, and the Role of the Common Law*, 84 TEX. L. REV. 191 (2005).

<sup>56</sup> <https://oui.doleta.gov/unemploy/uifactsheet.asp>

<sup>57</sup> 29 U.S.C. §§ 2601 et. seq (2000).

benefit (FMLA).<sup>58</sup> To this end, there are huge difficulties for temporary workers to get the protections and benefits in most employment law statutes. Besides, the statutory employer is classified as the temporary agency by most states' laws which theoretically limit temporary workers' unemployment and workers' benefits.

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<sup>58</sup> Befort, S. (2003). Revisiting the Black Hole of Workplace Regulation: A Historical and Comparative Perspective of Contingent Work. *Berkeley Journal of Employment and Labor Law*, 24 (1), 153-178. Retrieved May 10, 2021, <http://www.jstor.org/stable/24052147>

### **3. OUTCOME OF THE RESEARCH**

The primary objective of this study was to identify the impact of agency work on U.S. and German employment law. The study aims to analyze the employment of the U.S. and Germany. The study topic is chosen to examine if any worker's right is violated, how the company uses state laws and international employment laws to cater to the situation. Agency companies have the responsibility to ensure that every worker is provided with full rights to paid leaves, wages, and paid vacations. This shows that they must have complete knowledge of the human rights and ethical responsibilities of the organizations. The agency company often provides employment advice to people so that they can attain their goals. Employment advice makes it easy to choose the professional field according to expertise and skills. Besides this, consultants and recruiters help companies to hire permanent employees. The agencies allow companies to access the employees having the most relevant skills for their operations. Hiring the right employee for the right task will increase system productivity and results in future sustainability. There is various temporary work, and ample examples can be found in construction and agriculture industries where employees have a low level of skills. Different legal and ethical principles have developed to maintain the relationships to run the organization successfully.

#### **3.1 Findings in Germany**

According to Lars (2007), 2% of the workforce in the United Kingdom gets employment through temporary aid agencies, while in Germany, it is 1.4%.<sup>59</sup> Literature shows that employers are trying to cut down the workforce as minimum wages are increased, which is, of course, an ethical act. This gesture is increasing the unemployment rate in countries. The employer can face serious legal issues when he is found to firing an employee due to personal benefit or any unjustified reason. It has been observed that employees must be hired on the same wages instead of increasing the minimum wages will help to reduce the unemployment rate. With the increase in wages, the inflation rate becomes higher, thus increasing the overall cost of commodities. The deployment of temporary workers in Germany is not as different in other countries. Literature specifies that temporary work increases the labor force in both primary and secondary work sectors. However, the work environment and wage policies for

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<sup>59</sup> Lars W.Mitlacher. (2007), *supra nota* 8



both primary and secondary working industries are entirely different. An increase in temporary work has improved access to the labor market and helps create new jobs. During the economic downturn and global crisis from 2008 to 2009, Germany has maintained the employment rate well. The country resolves the economic problems without increasing the rate of unemployment.<sup>60</sup> Where many of the countries are facing issues in retaining their employees, Germany has developed a series of labor reforms to protect labor rights and reduce the risk of unemployment within the country. Studies show that the idea of independent work is rapidly changing in OECD countries. Literature shows that self-independent work is increasing as compared to independent work with secondary representatives.

It has been observed that agency law helps the corporation to act ethically in business dealings and environments. These laws and regulations allow the board members to operate the corporation successfully. Literature specifies that agency laws are designed to take responsible action on the corporate level. Agency laws make the stakeholders protect their investment and reduce the risk of collapse. The literature specified the attitudes, behaviors, and well-being difference between temporary and permanent workers concerning the agency laws. Research shows that temporary working, hiring pressures, and risk of injustice can bring psychological changes in the employees. Inequalities among employees will result in stress and anxiety, which will affect productivity and performance.<sup>61</sup> Their attitudes and behaviors reflect how much they trust their organization and how much they take care of their rights. In Germany, fixed-term contracts are mainly designed to concentrate on employees and trainees in the private sector. Many of the trainees are young and working in different social, public, or academic sectors. It has been observed that temporary employees in Germany focus more on the agency services which leads them to permanent employment.

Moreover, they try to develop new skills to achieve promotions and rewards from the company. Literature shows that agency's work in Germany has grown since 2001. However, it only represents around 2.5% of total employment. The research shows that in mids 2000s, Germany's manufacturing sector has experienced considerable growth.

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<sup>60</sup> Rubery, J. (2018), *supra nota* 21.

<sup>61</sup> Bhui, K., Dinos, S., Galant-Miecznikowska, M., de Jongh, B., & Stansfeld, S. (2016). Perceptions of work stress causes and effective interventions in employees working in public, private and non-governmental organizations: a qualitative study. *BJPsych bulletin*, 40 (6), 318–325. <https://doi.org/10.1192/pb.bp.115.050823>

The reason for this growth is the country's employment and labor reforms. A collection of four reforms between 2003 and 2005 formulate the labor policies for Germany. The first reform is related to a temporary work environment in Germany.<sup>62</sup> The literature specifies that it improves the working condition for temporary workers. Policies for taxes and social insurance were developed in the second reform and help the low-income workers to meet their daily needs. Literature specifies that the Government announced support for the unemployed population to set up their business. It has been found that the third stage introduces a Federal employment agency (F.E.A.) which issues approval for the foreign employee to work in Germany. The fourth reform works to provide social insurance to unemployed people in Germany to meet the challenges of the global crisis. Besides this, in 2009, the introduction of the Employment and Stability Guarantee Act promotes short-term work, temporary jobs, and training. In the same year, a significant reform regarding the minimum wage system for the employees was developed to protect employee rights. Agency workers in Germany are ensuring the implementation of these reforms within the organization. To increase the labor market flexibility, the country focuses on women, single parents, older adults, and immigrants. The Government is trying to provide these social groups with various employment opportunities to manage their living expenses without depending on any other person. In addition to this, family policies were also developed to serve the same purpose.<sup>63</sup>

### **3.2 Findings in the U.S.**

The literature specified that the increasing use of temporary workers in the U.S. accidentally influences the working environment of permanent workers along with their working conditions. Moreover, it demands permanent oversight and an increased level of responsibility from the permanent workers. Studies show that this situation could lead to increased workload among the permanent workers. There are possibilities that the tasks assigned to a permanent worker can be changed by a temporary worker and permanent employees concern more about internal mobility and development opportunities. The hiring of temporary employees will increase the competition level among the employees who are at the bottom of the corporate hierarchy and working to make the company running. However, competition between the

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<sup>62</sup> Möller, J. (2010). The German labor market response in the world recession—de-mystifying a miracle. *Zeitschrift für Arbeitsmarktforschung*, 42 (4), 325-336.

<sup>63</sup> *Supra nota* 35.

employees will increase motivation towards innovation.<sup>64</sup> There are possibilities that temporary workers working in the U.S. may become permanent by the organization, which prevails a sense of insecurity among the employees. The literature further specifies that this could reduce the level of trust that payment employees maintain in their organization. They may think the company violates their expectation which ultimately results in poor performance.<sup>65</sup> This scenario highlights the need and importance of strict policies to make a temporary employee permanent without violating the rights of already existing permanent employees. Law on Agency work in the U.S. should try to look into this matter more deeply to avoid future conflicts between employees and organizations.

The research has found that Law for agency workers in the U.S. works for the rights of both temporary and permanent employees. According to the rules, temporary employees have the right to receive minimum wages. In the U.S., employment agencies receive their pay from the companies they represent, while workers can gain their wages from the agency rather than employers. The agency workers ensure that every employee will gain complete access to benefits and incentives after completing the contract period. It has been analyzed that the U.S. is utilizing agencies to hire staff and to ensure that they are paid the correct salary for their skills and business activities.<sup>66</sup> Hiring staff through agencies is providing them with the responsible and skilled personnel that are suitable for the current vacancy. When the eligibility requirements for Statutory Sick Pay ( S.S.P. ) are met, employees of the agency can gain benefits from the paid leaves. It has been found that the agency is responsible for paying this amount to the employees according to the rules and regulations. However, the recruiting company should cover the cost specified under the commercial arrangements. Moreover, in the U.S., a compensation program of 150,000 and potential medical benefits are offered to the employees that are facing cancer due to energy radiation in the Department of Energy. Besides this, a compensation Law for beryllium or silica experienced during duty and introduces a \$50,000 lump sum along with the potential medical benefit to employees working at the site.<sup>67</sup>

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<sup>64</sup> De Bondt, R. and Vandekerckhove, J. (2012). Reflections on the relation between competition and innovation. *Journal of Industry, Competition and Trade*, 12 (1), 7-19.

<sup>65</sup> Boeri, T. (2020), *supra nota* 25.

<sup>66</sup> Weil, D. (2018). Creating a strategic enforcement approach to address wage theft: One academic's journey in organizational change. 60 (3).

<sup>67</sup> Charlotte Allery. (2018), *supra nota* 40.

## CONCLUSION

The study applies the comparative qualitative method to analyze the impact of agency work on U.S. and German employment law. It has given deep insights into the role of agents in improvising the employment law. The qualitative method used in this research makes it practical to analyze different legal articles based on the employment law of the U.S. and Germany. Although the idea of qualitative design helps analyze the study topic, however, a quantitative design can give more profound insights into the study topic. The study revealed essential points related to agency work in Germany and the U.S. The analysis indicated that agency work in Germany is implemented to protect the rights of workers. The agency worker covers sick leaves, holidays, and pregnancy leaves of the permanent workers. The analysis shows that agency workers must have complete knowledge of human rights and should guide companies on how to treat their employees well. The labor market in Germany has increased significantly due to labor reform. Agency workers help the company in the hiring process and ensure that the company chooses the right person for the right job. Agency workers know the ethical and legal principles developed to run the organization successfully.

However, several legal issues in the working environment relating to temporary staffing can be found to broadly generate confusions about who is or not considered an employee of an organization. On a different occasion, we have seen workers being referred to as temporary staff and not employees of an organization and this shows how temporary workers are being viewed in a working environment. The scenario is especially common in regards to temporary workers who are being provided by agencies that typically employ, groom and pay their salaries. The temporary workers don't have a recognized relationship with the organization they are being posted to as there is no agreement among them and this mindset can lead to a legal dispute. Nonetheless, the law tends to ignore this heading and empathised rather on the level of control imposed over a person's daily exercises.

Studies show that temporary work agencies are used more in the U.S. than in Germany. The workforce of temporary agency workers is small as compared to the permanent working employees. However, they play an essential part in the development of organizations. It is also observed that employers are trying to reduce the workforce as minimum wages paid to the employees increased. When an employer is found to be involved in such an unethical act, then he

or she might face serious legal issues. The study revealed that the inflation rate becomes higher when minimum wages enhance which reflects an increase in commodity price.

Research shows that temporary agency workers have a considerable influence on the overall labor force. Their deployment has a remarkable impact on the workforce which will change the labor market of both Germany and the U.S. The deployment of temporary workers in Germany affects both primary and secondary work sectors. It has been evaluated that temporary workers have increased the labor market and makes the industries introduce new jobs for the population. This will reduce the unemployment rate to a significant extent. Although the economic crisis from 2007 to 2009 increase the unemployment rate in many countries, Germany had cope up with this situation more efficiently. Different labor reforms are being developed to protect them from unemployment. Companies are advised to reduce the unemployment rate as much as possible. After the global recession, Germany has gone through a significant shift in labor policies to reduce the unemployment rate in the country. The policies focus on involving young people in the market and provide them opportunities to grow the country's economy. The Government has announced social support reform for the unemployed person and announce incentives for the existing employees. Findings show that the Germans are on the right track to protect the rights of their employees and an unemployed person even in the global crisis.

Besides these reforms, the E.U. directive 2008/104/E.C. is designed to protect the rights of employees from temporary work agencies. It ensures that employees working through employment agencies are treated equally as the employees hired by companies and do the same work. The study reveals that temporary work in the U.S. significantly affects the permanent worker. Permanent workers have a huge responsibility to the organization, which may increase their workload. Study shows that tasks assigned to permanent worker sometimes replaced by the temporary worker. In the U.S., permanent employees are much concerned about the increasing temporary workforce. There are chances that permanent employees mistrust the organization in their treatment against the temporary workers. Increasing force brings significant competition among the employees, and there are possibilities that some temporary employees will gain huge rewards irrespective of the permanent one. The study reveals an essential scenario of insecurity among the permanent employees due to the presence of temporary employees. Research shows that when a temporary worker makes permanent by the organization, there might be a sense of insecurity in the permanent staff. Employees lose trust within their company, and it will reflect poor performance. However, incentives and rewards help to build their morale high, thus improving system productivity.

Agency laws are designed to maintain ethics within the business operation. Every employee can enjoy equal rights and conditions irrespective of being employed by the company or agency. Research shows that hiring and pressures of not being equally treated by the employers result in health issues. This condition may bring stress and anxiety among the employees, which reduces their performance. Companies have developed a fixed contract for their employees and trainees through which they are making their trainees permanent. However, temporary workers rely more on their agencies to develop new skills and achieve promotions. Germany has developed temporary work employment law, which has a significant impact on the country's employment law. According to this Law, the temporary workers are to be equally treated by the companies. Besides this, taxes and social insurance policies for low-wage employees have a considerable impact on the German employment law. Moreover, the Government has announced support programs for unemployed persons to carry out their business efficiently. It has been evaluated from the finding that the rights of Temporary workers are not violated in any of the two countries.

For future research, a quantitative study can be organized that helps to incorporate human views on the study topic. Quantitative design can give more up-to-date scenarios of the employment law in both countries. It is recommended to use a survey questionnaire to ask relevant questions to the legislative bodies both in the U.S. and Germany to understand the ongoing amendments in the employment law. The questionnaire can be distributed online or physically among the concerned authorities that play an essential part in making the employment law. The legislative bodies can be asked whether or not the agency workers impact the employment law. This method will be beneficial to analyze the study topic more critically, highlighting whether the agency work contributes positively in both countries or there exist some flaws in it. It reveals future areas for improvement in the agency work so that employee's rights can be fully protected by the organizations. Besides this, it will be beneficial to include agency workers in the survey. The survey questionnaire can be designed to understand how the agency workers are playing their part in the improvement of employment law. Agency workers can be asked to comment on the accuracy and effectiveness of current employment law. Questions can be designed to analyze the challenges and difficulties faced by the agency workers in protecting employee rights. Furthermore, it will specify their roles and responsibilities towards both permanent and temporary employees. The survey questionnaire can also reveal the condition or circumstance which makes the agency worker suspend their service for the organization. This helps identify what actions an agency worker takes when identifying any person receiving less favorable treatment than other employees.

the study can be extended by including employment laws of more countries. There is a considerable scope to include other developed countries in the study like the U.K. The research can compare the employment law of the U.K. before and after Brexit. It will highlight how the separation of the E.U. and the U.K. impacts the role of agency workers and organizations in protecting employee's rights. Future study will identify how Brexit brings difficulties to manage employee rights within the U.K. Moreover, the extension helps to analyze the changing role and responsibilities of agency workers in the U.K. The extension can be supported by various scholarly articles so that it is easy to negate or support arguments made by the authors.

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## APPENDICES

### Appendix 1. German employment policies

YEAR	REFORM	MAIN OBJECTIVES
1997	Reform Act for Employment Promotion (SGB III)	Career advise, placement services, reintegration, and short-term work arrangements
2001	Act on employment-AQTIV (Act to reform Labor Market Instruments)	Extended flexibility in the labor market (agency work, employment rotation); extended public-private investment cooperation
2002	Placement vouchers	Extension of public-private investment cooperation
2003	First Act on Labor Market Services (Hartz I)	Flexible work (agency); vouchers for training (public-private cooperation)
2004	Labor Market Reform Act	Relieving the provision of protection against dismissal; reducing the duration of unemployment benefits for the elderly
2004	Relieving the provision of protection against dismissal; reducing the duration of unemployment benefits for the elderly	Central monitoring system replacing decentralized structures and targets and work centres; city services and unemployment services are combined in the single-stop shop by personal caseloads
2005	Fourth Modern Labor Market Services Act (Hartz IV)	Unemployment and social aid mergers; social services are introduced; employment schemes are irregular
2007	Family policy	The Government subsidizes parents who stay home for up to 14 months. Increasing parental benefits

		allow for sharing childcare with both parents working part-time.
2009	Reform of labor market instruments	Limitation of several measures Extension of work requirements.
2009	Minimum wages	Implementation in specific sectors of minimum wages
2010	Several reforms on short-time work; Law on Ensuring Employment and Stability	Enlargement of short-term and temporary work
2012	Qualified Professionals Initiative	Activity measures, education, training, and integration skills for women, single parents, older people, and skilled migrants
2013	Youth Guarantee	Initial and continuing training Alliance; expansion of the youth career agency; preventive career support mentoring program.
2015	Minimum wage	The legal minimum wage has been applied
2016	The Integration Action: Law to restrict the use of non-standard forms of employment	Support and regulation on refugee integration into the labor market; a training bonus is paid following mid-term examinations and successful training.

Source: Katharina Zimmermann, Venesa Fuertes, (2013)

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