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Non-standard employment in government: an overview from Canada and Brazil

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Sectoral
Policies
Department

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Non-standard Employment in Government:

An Overview from Canada and Brazil

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List of Acronyms

ADC	Declaratory Action regarding Constutionality (*Ação Declaratória De Constitucionalidade*, Brazil)
ALOC	Association of Law Officers of the Crown (Canada)
AMAPCEO	Association of Management, Administrative and Professional Crown Employees of Ontario
CANSIM	Canadian Socioeconomic Information Management System
CUT	Single Workers Union (*Central Unica dos Trabalhadores*, Brazil),
DF	Federal District (Brazil)
DIEESE	Inter-Union Department of Statistics and Socioeconomic Studies (Brazil)
FT	Full Time
LFS	Labour Force Survey
MPT	Labour Ministry (*Ministério Público do Trabalho*, Brazil)
MS	Ministry of Health (*Ministério de Saúde*, Brazil)
OPSEU	Ontario Public Service Employees Union
OCAA	Ontario Crown Attorneys' Association
OPPA	Ontario Provincial Police Association
PEGO	Professional Engineers, Government of Ontario
PSCC	Public Service Commission of Canada
PT	Part Time
PUMF	Public Use Microdata File
SINDEPRES	Union of Employees in Companies Providing Services to Third Parties, Placement and Management of Labor, Temporary Labor, and Meter Reading and Delivery of Notices of the State of São Paulo (Brazil).
STF	Federal Supreme Court (*Supremo Tribunal Federal*, Brazil)
SUS	Single Health System (*Sistema Único de Saúde*, Brazil)
TCU	Federal Accountability Tribunal (*Tribunal de Contas de la União*, Brazil)
TST	Superior Labour Court (*Tribunal Superior do Trabalho*, Brazil)

Preface

One of the complex challenges associated with the employment relationship is how to improve the working conditions of non-standard workers, whose numbers have grown significantly through the use of different contractual arrangements, and who are considered more vulnerable in labour markets than those who are in standard work arrangements. The Sectoral Policies Department (SECTOR) is pleased to present a series of country studies on non-standard work in the public service, as part of its strategy to advance the study of changing employment relations. Drawing on the Conclusions of the Recurrent Discussions on Fundamental Principles and Rights at Work adopted by the ILC in 2012, SECTOR has compiled examples from various regions on sectoral trends in non-standard work arrangements, to increase understanding of their impact on Decent Work objectives and identify solutions as appropriate.

As a result of recent developments in budgetary constraints, and changes in human resource management in public administrations, a growing number of tasks are increasingly performed through non-standard working arrangements. The ILO's Committee of Experts on the Application of Conventions and Recommendations, in its 2013 General Survey on Conventions No. 151 and 154, expressed concern regarding such trends in labour relations in the public service as the extension of contracts governed by private sector labour law; the recruitment of temporary public servants, agency workers, or regular workers on a non-permanent recurrent basis or working part-time; and the use of civil or administrative contracts to provide services specific to public administration. The Committee warned of potentially negative repercussions for the independence of public servants and for compliance with constitutional requirements in the recruitment of civil servants.

In response to the General Survey, the Committee on the Application of Standards at the 102nd International Labour Conference (2013) underscored that collective bargaining in the public service can maximize the impact of the response to the needs of the real economy, particularly during times of economic crisis, and contribute to just and equitable working conditions, harmonious relations at the workplace and social peace. It can ensure an efficient public administration by facilitating adaptation to economic and technological change, and the needs of public administration. The Committee encouraged the Office to provide support for capacity-building and assistance to promote the ratification and full implementation of Conventions Nos. 151 and 154.

This series of Working Papers seeks to shed light on this phenomenon and to strengthen the understanding of collective bargaining in challenging situations in the public services of different countries. We hope that ILO staff and constituents will find it useful when devising future policy initiatives.

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Introduction

This report reviews the status and the implications of non-standard employment in the government in two countries: Canada and Brazil. Recent research and policy discussions have been focused on the growth of non-standard employment in the private sector in many countries. The ILO's own work has focused on growth in non-standard employment as a global phenomenon. In the past, less attention has been paid to growth of non-standard employment in the civil service, i.e., people who are directly employed by governments.

In this report we examine a number of issues beginning with the extent of such employment in governments in these two countries. We also examine their eligibility to join unions, actual membership in unions and any social dialogue that may take place to give them a voice in the workplace. Lastly, implications for the quality of government work are examined in cases where non-standard employment is a significant proportion of the total employment. It should be noted here that since this paper is essentially a review of existing research, significant gaps in available information were found. These gaps ate highlighted throughout the report with a summary at the end on where future research efforts may be focused.

Another caveat to be offered is that no direct comparison of the two countries has been attempted here. The legal framework is quite different in the two countries which translates into many institutions and practices that are hard to compare directly.

The Context and Issues of definition and Scope

First, we need to specify what we mean by the term "non-standard employment", which is the opposite of permanent and fulltime. Hence, the scope of this term includes jobs that are temporary such as limited-term (also called contract work or workers), seasonal, casual, etc. In some places we also include employment that is part-time even though it may be secure, i.e., a permanent part-time job. Such jobs are not precarious over time but they do encompass a degree of income insecurity in that earnings from such jobs are usually not enough to support a comfortable standard of living.

It is necessary to note, however, that as pointed outd in the report prepared for the February 2015 ILO Meeting of Experts on Non-Standard Forms of Employment (NSFE),[1] there is no official definition of this kind of employment. The report states that, typically, "NSFE covers work that falls outside the scope of a standard employment relationship, which itself is understood as being work that is full-time, indefinite employment in a subordinate employment relationship." For the purpose of the discussion at the Experts' Meeting, the report considered the following forms of non-standard employment: (1) temporary employment; (2) temporary agency work and other contractual arrangements involving multiple parties; (3) ambiguous employment relationships; and (4) part-time employment. This paper examines non-standard work especially as it concerns examples of vulnerable low paid workers, women workers, migrant workers, young workers and others, including those that have attained a low

[1] ILO: Non-Standard forms of employment, Report for discussion at the Meeting of Experts on Non-Standard Forms of Employment, Geneva, 16-19 February 2015. The report is available at: http://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---travail/documents/meetingdocument/wcms_336934.pdf.

educational level.[2] The concepts of non-standard working and vulnerable workers are linked because the jobs done by vulnerable workers are often part time, low paid and contingent. In this report we mention the low pay of many government workers (Unite 2014) and the many public sector jobs that have been outsourced to the private sector.

Next, we consider the scope of public sector. This definition can vary widely across countries because the extent of government involvement in the economy varies widely. Therefore, our definitions are offered separately for each country in the sections to follow. Briefly, public sector can include some or all of the following: direct employees of the government at all levels: federal, state and local; public agencies such as boards, commissions, etc., that are funded entirely by the government but in terms of governance they remain at arms-length from the government in carrying out their role; the judiciary; educational institutions; healthcare organizations; and, state-owned enterprises.

As this paper documents, the scope of precarious work and employment in the public sector has been significant in recent years. But our ability to track this development fully is limited by the rising incidence of governments hiring labour through temporary help agencies. In many instances, such hires are not counted as workers working for the government even though in reality they are. The statistics reported generally underestimate the extent of non-standard work in the government.

In the following sections, we first describe briefly what we know about non-standard employment in the government sector in a few selected OECD countries. This is followed by a discussion of the Canadian case which in turn is followed by the case of Brazil.

Non-standard employment in Government: A Conceptual Framework

There is much variance in the incidence of non-standard employment across governments. But, a common set of factors account for their usage in most jurisdictions. Foremost is the idea that some work is naturally suited to fixed-term and casual employment. For example, a one-time project needs to hire people for the duration of the project only. Or, there may be natural peaks in demand that need additional help to tide over the peak demand for services. Tax processing around the tax-filing deadline or need for drivers in local transit services are typical examples.

But quite aside from demand-driven employment instability, the employer need to cut costs may result in non-standard employment. In many cases, especially for lower skill jobs, the employer can create a variable workforce that also costs less by paying these workers less than permanent employees doing the same work. These motives have driven non-standard employment in the private sector for a long time (Houseman 2001) but it would appear that they serve the same purpose for the public employers as well.

Another factor often cited for hiring employees on non-standard employment terms is the use of such a pool to identify high performing workers who could be hired later

[2] Cf., e.g., Sargeant and Ori (eds), 2013; Quinlan, 2012; TUC, undated; Fredman, 2004; Jayaweera and Anderson, 2008.

into permanent, full-time jobs. For the non-standard workforce to become an effective hiring pool, there must be excess labour supply in a given occupation within the relevant geography that would force qualified workers to accept non-standard employment while waiting for full-time jobs to become available. In recent years this condition has been easy to satisfy for many occupations as unemployment rates have been higher than historical averages over previous decades. If such conditions exist in the labour market, the employer may benefit from hiring temporary employees and being able to observe their performance on the job before offering them permanent positions. According to this argument, the employer can hire with greater confidence that they are hiring the right candidate. The rising costs of making a permanent hire and the opportunity costs of making the wrong hire have also persuaded many employers to take this route to full-time, permanent hiring.

Of course, there are some adverse consequences of employing a large non-standard workforce. Training costs and responsibilities are effectively privatized when labour is supplied by external agencies. The skills provided by the temporary help companies tend to be generic, rather than industry-specific. There is also a lack organizational memory as well as diminished capacities to work effectively within a distinctive environment. Significant inequalities exist between permanent employees and non-standard workers in terms of pay, working conditions and access to training which in turn leads to lower morale, productivity and satisfaction among the non-standard workforce.

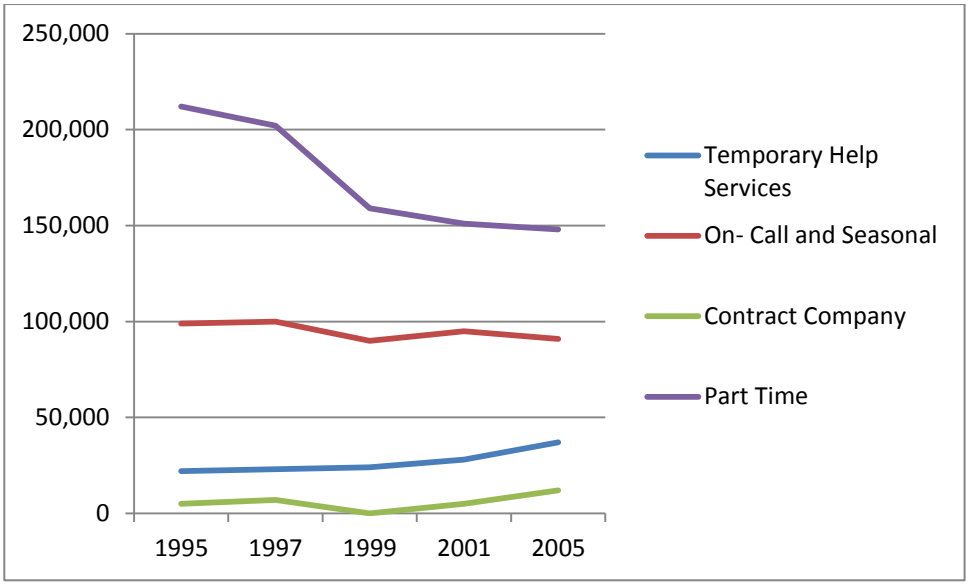
Non-standard Work in Public Administration: Other Countries

Before we delve into the cases of Canada and Brazil, it is instructive to take a brief look at some other countries which can help us situate our target countries within a larger context. In this section we review briefly the situation of non-standard employment in three countries with an Anglo-Saxon legal and historical background: U.S., Australia and the U.K.

United States of America (federal government)

As the following table shows, the overall number of workers in non-standard work arrangements declined by approximately 8 per cent during 1995-2005. This was reflected in a decline in on-call, seasonal and part-time employment. However, there was a sharp increase in the number of workers hired through temporary help agencies (Mastracci & Thompson, 2009). These numbers increased by 68 per cent although their overall numbers are a small fraction of the total employment. This trend is similar to the one in Canada as we will show in a later section (PSC 2010). In addition, the use of contract employees has more than doubled between 1995 and 2005. The same study also reports that at all levels of education and experience contingent workers are more likely to be females in the US public service.

Figure 1. Nonstandard Work Arrangements in Core Federal Government, 1995-2005 (a)



Source: Reproduced from Mastracci & Thompson (2009), citing U.S. Dept. of Commerce, Bureau of the Census, *Current Population Survey: Contingent Work Supplement* for each year. Numbers are rounded to the nearest 1,000. Full data available in the Appendix.

Notes:

a) Independent contractors are not shown because they numbered fewer than 5,000 each year in general federal government functions.

b) "General government" includes public administration, national security/international affairs, justice, public order, and safety, administration of human resource programs, economic development programs, environmental protection and community development programs, tax, finance, and budgeting, excludes federal health services and hospitals, education services, transportation, communications, utilities, United States Postal service, and military non-civilian activities.

c) Fewer than 5,000.

Research has found that independent contractors and contract company workers often receive a higher compensation compared to employees who work in in standard permanent arrangements (Mastracci & Thompson, 2009). Therefore, it is likely that some people choose to work on contract voluntarily. On-call and temporary agency workers usually get paid less than their colleagues in standard arrangements. When drawing a comparison between the independent contract and contract company work and the on-call and temporary help jobs, it is found that the employees who work on contract arrangements earn more (Mastracci & Thompson, 2009).

The use of contingent workers, it has been written, can cause conflict due to the public perception that federal employment should be "stable, long term, and with generous benefits" (Mastracci & Thompson, 2009). Similarly, unions have argued that the use of contingent labour can "ignite one's worst fears: efforts to minimize cost and maximize efficiency in government will shatter the employment contract and ultimately defy the public interest" (Mastracci & Thompson, 2009). However, empirical evidence to support such contentions is rather sparse.

In one study, Galup, Klein, Jiang (2008) tracked developments in the information services (IS) department in a county government agency in South Florida, which was undergoing extensive change. Temporary employees were considered to be the solution to the agency's needs such as handling peak periods of systems development that required skills in multiple areas, providing backfill while permanent employees attended training, and providing specialized skills needed for short-term engagements. Focus groups in the IS department raised their concern about low employee morale, training and use of temporary employees, as well as about the significant differences between permanent and temporary employees. These issues were, in particular:

- Which role would temporary workers play?
- How should the regular employees interact and work with temporary employees?
- Which tasks would be assigned to temporary employees?
- Will temporary employees interact with the clients?
- How would the use of temporary employees affect the culture in the department?
- Would the commitment of temporary employees be sufficient?

This study found that temporary employees believed they were less interdependent than their colleagues. Permanent employees continued to have their strong ties to other people in the organization who did not work in the IS department. This enabled them to use these contacts to influence occurrences inside the department as well as the relations with customers. Permanent employees could use their relationships with customers to gain organizational support for projects and approaches that they preferred. On the other hand, temporary employees had few external ties and were detached from the organization's politics. Temporary employees were usually assigned to work on specific projects, which did not require as much interaction with customers as did the assignments of permanent employees. Thus, temporary employees became more engaged in the organization only when there were signs that they would be transitioned into a permanent position.

Responses of temporary employees indicated that they were more satisfied than the permanent employees. This can be due to the fact that they earned more in wages than their permanent colleagues. The work of the temporary employees was more defined and short-term. Management provided more task direction. In addition, temporary employees were often assigned to only one project at a time. The survey revealed that managers perceived temporary workers to be more self-motivated and that they possessed a better work ethic than the permanent employees. Permanent employees had more task interdependence, which can have a negative impact on job satisfaction. Autonomy was found not to be significant in relationship to job satisfaction in this particular survey.

Australia

The industrial relations system in Australia has experienced a decentralization trend since the 1990s. During the same period, there has been an increase in the use of labour hire agencies to provide contract labour (Lafferty & Roan, 2000). Between 1990 and 1995 there was an increase of almost 40 per cent in the use of contactors and agency workers. Outsourcing is used as a tool to achieve greater cost efficiencies and workplace flexibility. Since the early 1980s, the public service has experienced downsizing due to the introduction of new office technology, commercialization and privatization. In general, women are more highly represented in the temporary work arrangements in the public sector. "Non-standard employees enter the public service via two routes: as temporaries or as casuals. Temporary employees are employed on a short-term basis under the same conditions as permanent employees, whereas casual employees are employed on an irregular basis, without the recreation and sick leave benefits of permanent and temporary employees." (Tunny & Mangan 2004, at 594).

In one study that examined staff movements in the Australian state of Queensland, it was found that non-standard employment can be a stepping stone to permanent employment (Tunny & Mangan, 2004). One in four new non-standard employees could expect at the time of the study in 2004 to receive permanent employment after a stint as a non-standard worker. The same study found that public employees have above average educational qualifications and, in the lower and middle range positions, higher wages and longer job tenure. The age of entry into the public service in Queensland was rising at the time, with an average age for all entrants at 33.4 years (Tunny & Mangan, 2004). Females comprised 64% and 68% respectively of temporaries and casuals in 2003/2004. Temporary employment (involving fixed-term contracts) was being used in the public service as a screening device for permanent hires while casual employment was being used primarily for achieving numerical flexibility in use of labour.

There is a contradiction between the strategic management of the public sector organizations with a commitment to long term national goals, and a short term focus on cost minimization (Lafferty and Roan, 2000). Strategies to prevent further erosion of the skill base are required. There is a need to emphasize continuing accountability in terms of expenditure and this should be facilitated by increasing investment in training (Lafferty and Roan, 2000).

United Kingdom

Crucial features of public sector employment organization in the UK have been strong internal labour markets, job security and paternalistic management. In addition, professionalism combined with a bureaucracy resulted in a system where open-ended, i.e., permanent, employment came to be seen as the norm (Kirkpatrick & Hoque, 2006). In the past "the use of agency workers was driven mainly by employer demands for improved flexibility" (Kirkpatrick & Hoque, 2006). But in more recent years, the authors found that employees also appear to be attracted to working for temporary help agencies because it allows them "to accommodate changes in life-style or to juggle work and non-(or different) work interests and responsibilities", even under less favourable conditions of work. It appears that even some professionals who in the past valued and wanted standard employment contracts now seem to be opting for some kind of alternative (Kirkpatrick & Hoque, 2006).

In the National Health Service, which is the most highly professionalized service, it was estimated that the expenditure on temporary (mainly agency) staff in England increased between 1997/98 and 2002/03 from £216 million to £628 million (Kirkpatrick & Hoque, 2006). The primary reason for the use of agency workers was to 'cover for vacancies'.

The chart below shows the temporary workers by industry sector in the UK in the year 2000.

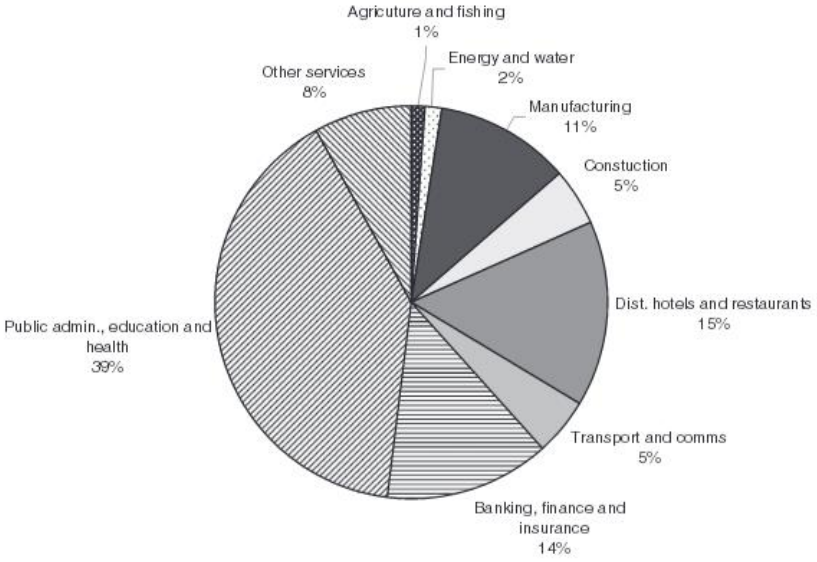


Figure 1: Temporary workers by industry sector
Source: Labour Force Survey Historical Supplement – 2000 spring quarter

Source: (Conley, 2003)

In one study, Conley (2003) demonstrated that "decentralization and restructuring of the public sector in the UK has widened the gap between policy formulation and its implementation, as a result of the informality surrounding the recruitment of temporary workers and their exclusion from [equal opportunity] policy." (456) Conley's study revealed a rate of temporary contracts in local government amongst women (14 per cent), young workers (25 per cent), disabled people (17 per cent) and ethnic groups (15%).

Research has shown that contingent employees are less committed to the organization and engage less in organizational citizenship behaviour than permanent employees (Coyle-Shapiro & Kessler, 2002). Contingent employees receive fewer organizational benefits and consequently, view the relationship with their employer in more narrow terms. Further, contingent employees are likely to display less positive attitudes and behaviours than permanent staff (Coyle-Shapiro & Kessler, 2002).

In the UK agency workers can earn between £3 and £4 per hour more than an equivalent permanent employee (approximately £15 and £11.50 respectively in London, UK) (Kirkpatrick & Hoque, 2006). However, the work arrangements usually lead to a loss of contributory pension schemes, long-term cover for illness or sick pay, holiday entitlements and other perks such as assistance with childcare. So, the extra pay for agency workers can be considered to compensate for the loss of benefits.

Casual workers are excluded from grievance and disciplinary procedures (Conley, 2003). Casuals do not have full employee status and therefore fall through the procedural net and are denied the option to request disciplinary hearings. Temporary workers have formal access to the grievance and disciplinary procedures. However, the issue is that they are "unlikely to be employed by the time the matter is resolved" (Conley, 2003).

Casual workers can complain formally about sexual or racial harassment by lodging a complaint with their immediate line-manager or, if he or she were the cause of the complaint, with the manager's boss. However, in practice there are shortcomings. When a female temporary worker raised a sexual harassment complaint, the managers involved "closed ranks" and began victimizing the woman. Eventually her work performance was

determined to be too low and her contract was not renewed. (Conley, 2003) The exclusion of workers from grievance and disciplinary procedures and related union membership increases the likelihood that institutional power could be used coercively against the most vulnerable workers (Conley, 2003).

Conley (2003) suggested that public sector trade unions should incorporate equal opportunity clauses for temporary workers. Public organizations should provide contingent employees with the necessary inducements. This could make them respond in organizationally supportive ways. There may be a requirement for a fundamentally new "mind-set" in terms of how contingent employees are viewed in service-driven organizations. This could allow contingent workers to give their 'best', rather than being seen a cost-efficient response to short-term needs (Coyle-Shapiro & Kessler, 2002).

Part A. Canada

Governments in Canada have hired some temporary staff at most times during the past century. But the numbers of temporary staff and other workers who do government work but are not considered government employees has never been higher or more significant in terms of their contribution to the conduct of government work. The various categories in which temporary (or non-standard) employment exists in government have evolved over time and can vary across different levels of government and jurisdictions. In this section, we describe the types of non-standard employment that exists in the Canadian federal government to illustrate the trends. These categories may vary slightly across provinces. Following the typology, we discuss the incidence of non-standard employment in federal government and in Canada at large.

It is important to delineate and define the government sector in the case of Canada. The national statistical agency, Statistics Canada, provides these definitions as shown in Table A.1.

Table A.1. Employment in the Government Sector in Canada 2011

	Employment	Share (%)	Wage Bill (CAN$)	Share (%)
Government only	3,313,320	100.0	174,195,018	100.0
Federal government	427,093	12.9	31,103,207	17.9
Provincial and territorial government	356,709	10.8	23,198,296	13.3
Health and Social Services	859,350	25.9	45,172,690	25.9
Universities, colleges, vocational institutions	382,245	11.5	19,846,260	11.4
Local government	608,094	18.4	21,161,298	12.1
Local school boards	679,828	20.5	33,713,366	19.4
Government business enterprises (GBEs)	318,519	8.8	19,998,322	10.3
Government incl. GBEs	3,631,837	100.0	194,193,338	100.0

Source: Statistics Canada 2012.

Notes:

1. Employment data are not in full-time equivalent and do not distinguish between full-time and part-time employees. Includes employees both in and outside of Canada. As at December 31.

2. Federal general government data includes reservists and full-time military personnel.

The ultimate level of aggregation is employment in government including government business enterprises (GBEs) which stood at 3.631 million in 2011. GBE employment is excluded from our discussion in this paper. Government's own employment can then be split into six categories: three levels of government, i.e., federal, provincial and local, and three sectors that are primarily financed and run by governments in Canada, namely, health & social services, post-secondary educational institutions such as universities and colleges, and local school boards. These divisions are important for the discussion in this paper because the incidence of non-standard work can differ significantly across these segments of government. Moreover, the laws and regulations governing employer-employee dialogue also varies significantly across these sectors. So, it is hard to generalize.

Our discussion that follows is generally limited to the federal and provincial contexts. There are ten Provincial Governments and three Territorial Governments in

Canada. Municipal governments are excluded from the scope of this paper but many of the trends described here would also apply to them. Health and Education sectors are primarily funded by provincial governments but their employees are not considered to be civil servants. Employment decisions are decentralized to the level of a single hospital, school, college or university, although many provinces do allow for province-wide collective bargaining for some healthcare workers and teachers.

The federal government can hire temporary workers in two categories: casual and term. Term appointments can range from a low of three months to a maximum of three years. If an employee is hired continuously for three years the government is then obliged to hire the employee into permanent employment. So, if the employer does not wish to offer a specific employee a permanent job, the term appointment is usually ended just before the third anniversary. Casual employment is a form of being hired on contract which is limited to a maximum of 90 days per calendar year. Fixed-term employees can join the union and are covered by the collective agreement. Casual workers and those hired through a temporary help agency are not union members and are not covered by the collective agreement. The federal government also hires seasonal workers who can join the union and be covered by the collective agreement. For example, Parks Canada hires a large number of seasonal workers during the summer months to staff the National Parks.

In the Ontario Public Service, both Regular (full-time, permanent) and Fixed-term employees are covered by their respective collective agreements. But, staff hired through temporary help agencies are not covered, nor are they members of any union. In fact, it is hard to determine the numbers of such workers as they are not included in any published statistics. Anecdotal evidence suggests that their numbers have been growing in recent years.

Based on the examples of the Federal and Ontario governments, it appears that when there are three layers of peripheral workforce around the core workforce of "regular", i.e., full-time permanent employees.

First-tier Peripheral Workforce

The first tier of the peripheral workforce in government consists of part-time, contract and seasonal workers whose hours and weeks of work in a weekly or an annual cycle are less than full-time, full year employment. These workers are covered by a collective agreement in the Canadian Federal Government and the Ontario Government. They are required by their collective agreement to join the union and pay union dues. If any employee objects to union membership on religious or other conscientious grounds they must still pay an amount equal to union dues to a charity of their choice. This arrangement known as the Rand Formula, is quite wide-spread within the public sector. These workers receive pro-rated benefits and have access to the grievance system through their union.

Second-tier Peripheral Workforce

Next in the hierarchy are casual or short-term employees hired by the government, who are generally not covered by a collective agreement and may not receive pro-rated benefits comparable to the first-tier non-standard workforce. In some governments, such workers can be hired only for a limited duration. For example, in the federal government they are limited to a maximum of 90 days. If they exceed this length their contract is converted into a longer-term and they are then re-classified as contract workers in the first-tier described above.

Third-tier Peripheral Workforce

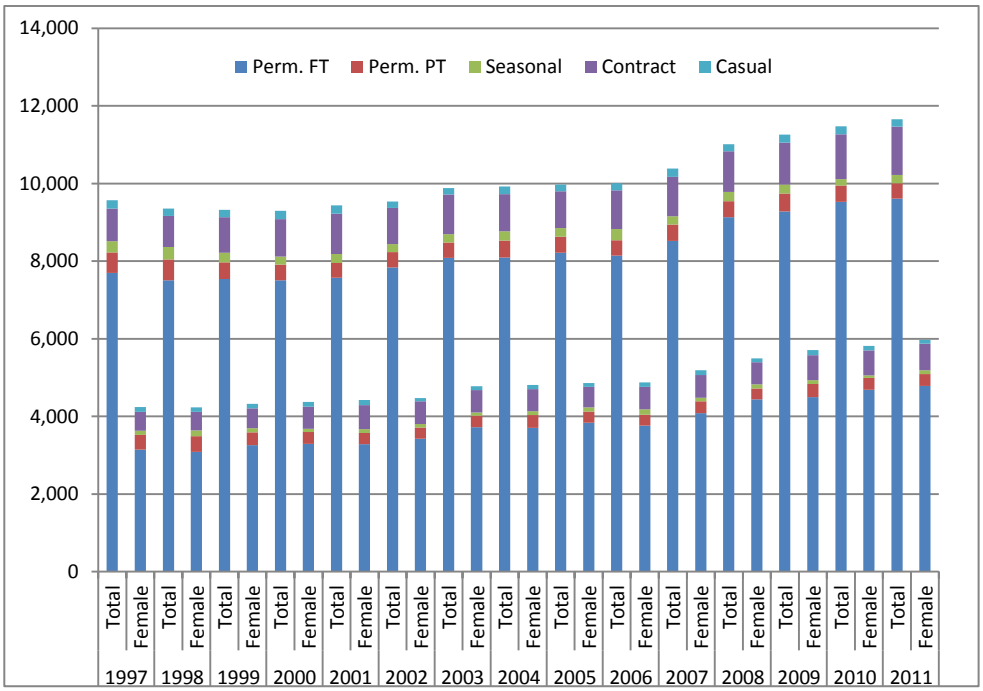
The third tier of the peripheral workforce consists of workers hired through temporary help agencies. Even though there is a clear case of economic dependency, these workers are not considered to be government employees in the eyes of the law. Hence, they are generally not covered by a collective agreement nor are they entitled to join the union at the place of work. In some cases, workplace unions would try to negotiate with the employer that these workers doing similar work be paid similar wages and benefits. But even in these cases, the union is not representing the non-standard workers but rather limiting the incentive for the employer to hire more such workers. In other cases, workplace unions in the government can force the employer to limit the numbers of such workers formally through the collective agreement or informally through vigilance and dialogue with the employer. Their numbers are not reported by the government or any other data collection agency. Later in this paper we summarize the key findings of a pilot study undertaken by the Public Service Commission of Canada into the extent and effects of hiring through temporary help agencies by the Federal Government of Canada.

Even though these workers are not normally counted as a government's workforce it is clear from the evidence that such workers form a substantive portion of the total workforce in this sector.

Incidence of Non-standard Work in the Government

Concerns about having temporary staff working in the public administration system have been present in Canada for at least a century. Flexibility has been the main argument for using temporary staff as it has saved money and made it possible to avoid complying with certain rules. However, between 1997 and 2011, the share of employment that is permanent and full-time actually grew slightly from 80.5 to 82.5 per cent.

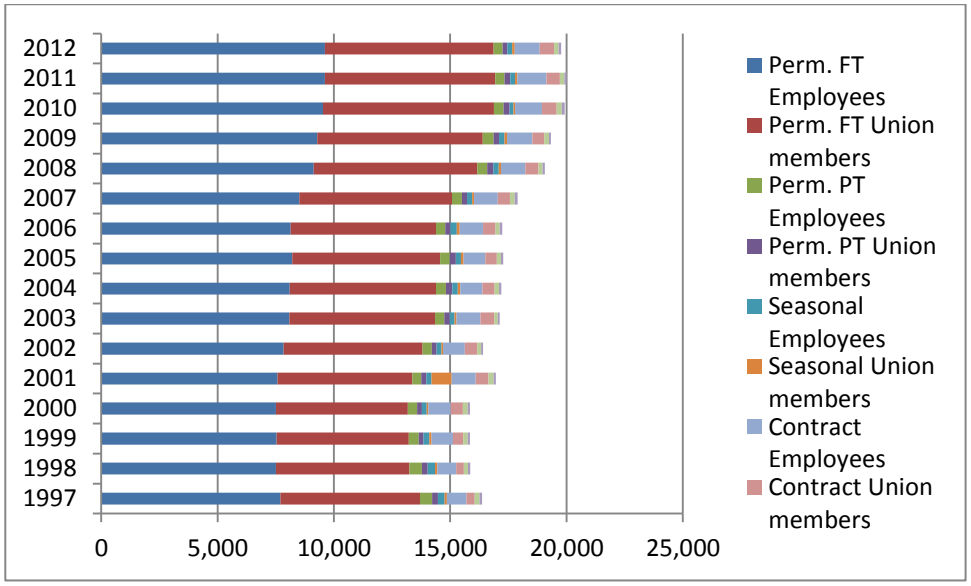
Figure A.1. Employment by Non-standard Status in Public Administration in Canada: 1997-2011 (thousands)



Source: Computed by the author using Statistics Canada 2014. Full data in the Appendix.

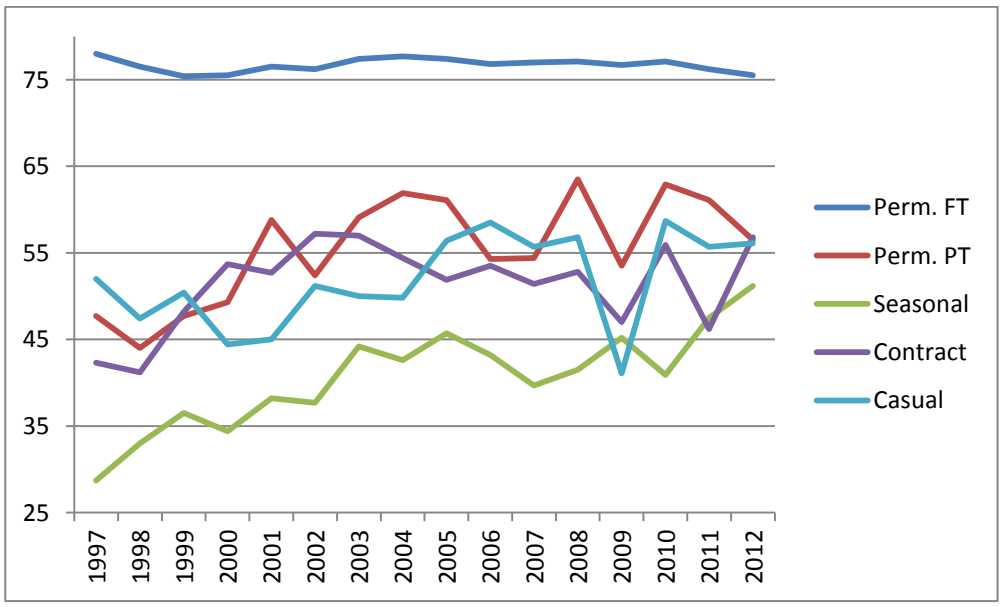
This outcome is partially a result of general cost-cutting by the governments but also of a shift of non-standard employment into the "contract" category. Over 1997-2011, the share of permanent part-time employment fell from 5.5 per cent of total employment to 3.4 per cent. The share seasonal employment fell from 3.1 to 1.8 per cent and that of casual employment declined from 2.2 to 1.6 per cent. Some of these declines in non-standard employment show up in increases in the share of contract employment, which rose from 8.8 to 10.7 per cent over the same period. The following figures show the extent of union membership among these employees for all of Canada between 1997 and 2012.

Figure A.2. Employment by Non-standard Status in Public Administration in Canada: 1997-2012 (thousands)



Source: Computed by the author from Statistics Canada 2014. Full data available in the Appendix.

Figure A.3. Union Membership by Non-standard Status in Public Administration in Canada: 1997-2012



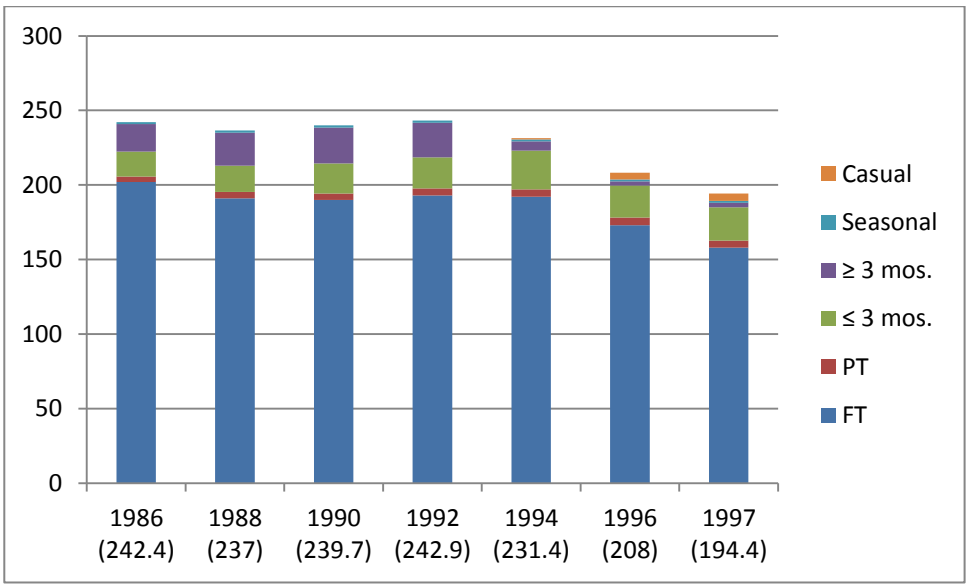
Source: Computed by the author from Statistics Canada 2014. Full data available in the Appendix.

The rate of unionization among non-standard workers increased during this period but even at their peak these rates were generally well under 60 per cent. This rate declined modestly from 78 per cent in 1997 to 75.5 per cent in 2011, for permanent full-time employees. In general, this decline simply reflects the trend that union membership though growing in absolute terms did not keep pace with the growth in employment. In general, proportionately more of the new jobs are classified as being outside the union's bargaining unit. The unionization rate among permanent part-time workers increased from 47.7 to 56.5 per cent; among seasonal workers the rate rose from 28.7 to 51.2 per cent; among contract workers it rose from 42.3 to 56.8 per cent; and for casual workers, it rose from 52 to 56 per cent.

Federal government

The Federal civil service is the largest group of workers with a single government employer. For that reason, trends and practices in federal employment are closely watched by other governments. Full-time employment shrank from 202,234 in 1986 to 158,107 by 1997 (see Table 5). Over the same period, the share of part-time workers grew from a very small base of 1.5 per cent in 1986 to 2.4 per cent in 1997. Over the same period, contract employment, then known as Term employment of less than or equal to 3 months grew from 6.9 to 11.5 per cent of the total employment. At the same time, Term employees with terms of more than 3 months shrank from 7.7 to 1.6 per cent. Seasonal employment rose modestly from 0.5 to 0.7 per cent. In 1993, the new category of Casual employment was introduced which rose from a tiny 0.3 per cent in 1994 to 2.6 per cent by 1997.

Figure A.4. Employment in the federal civil service by category: 1986-1997 (thousands)

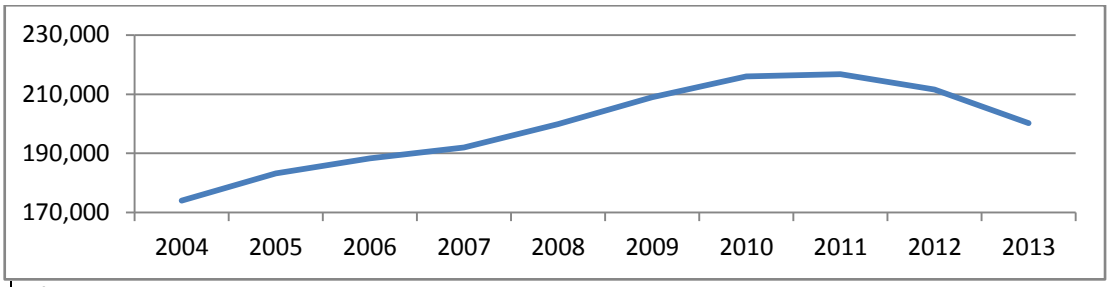


Source: Data retrieved from Gow, J., & Simard, F. (1999). The casual work category was introduced in 1993.

More recent data on non-standard employment in the federal government during 2004-2013 are shown in the following graph. Newer categories have been used in this are similar to the older ones. Permanent full-time workers are called "indeterminate", meaning that their term of employment is not fixed. While employment shrank during the 1986-1997 period, it was generally on the rise between 2004 and 2011 with modest but accelerating declines in 2012 and 2013. Overall, employment increased 15 per cent

between 2004 and 2013 with a slightly higher increase of 19.5 per cent in standard employment ("indeterminate"). Within the non-standard categories, specified term employment declined sharply (-40 per cent) while employment of casuals and students increased by nearly 40 per cent in each category. These shifts became more pronounced as renewed government efforts to cut costs and employment began to take effect in 2012 and 2013.

Figure A.5. Public Service Employment Act population, by year (March); Percentage Change



Change	+1.7%	+5.3%	+2.8%	+1.9%	+4.1%	+4.5%	+3.4%	+0.3%	-2.4%	-5.4%

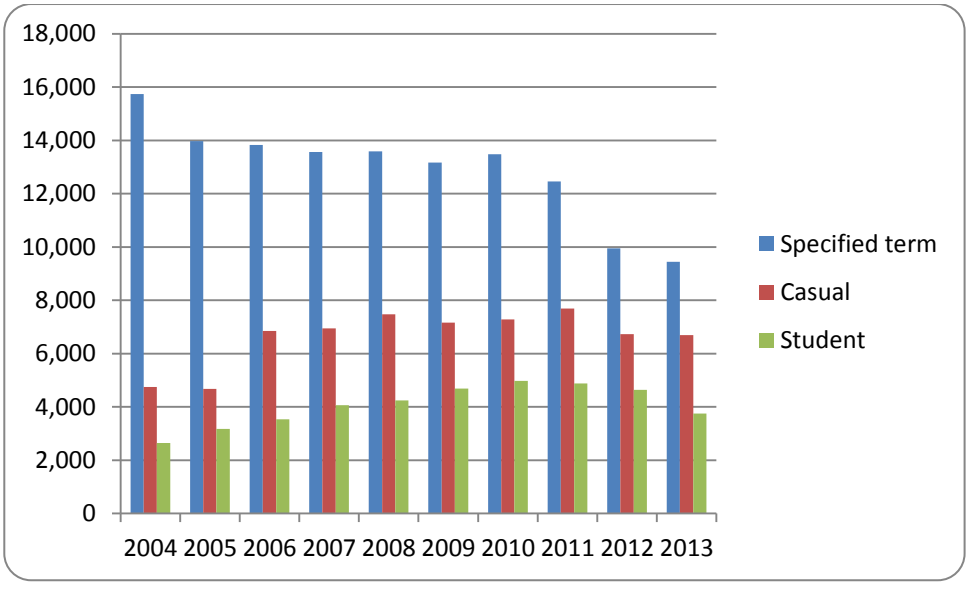
Notes:

(a) The growth in March 2005 includes the transfer of 9 507 employees from the Canada Revenue Agency to the Canada Border Services Agency. The number of employees in other organizations under the Public Service Employment Act (PSEA) decreased by 0.2 per cent from March 2004 to March 2005.

(b) The decrease in 2013 was partly offset by the transfer to Shared Services Canada of approximately 850 employees previously employed in non-PSEA organizations, chiefly from the Canada Revenue Agency. Had it not been for this transfer, the PSEA population would have declined by 5.8 per cent this year.

Source: PSCC 2004-2013. Full data available in the Appendix.

Figure A.6. Public Service Employment Act population, by year: Specified term, casual, students



Source: PSCC 2004-2013. Full data available in the Appendix.

Ontario provincial government

The Ontario Public Service is the largest of all the provincial units. Table 7 shows the total headcount by bargaining units (listed under their respective unions) and by

standard or non-standard classification at five-year intervals between 1995 and 2010 followed by data for the three most recent years.

Table A.4. Employment in the Government Sector in Ontario 2011

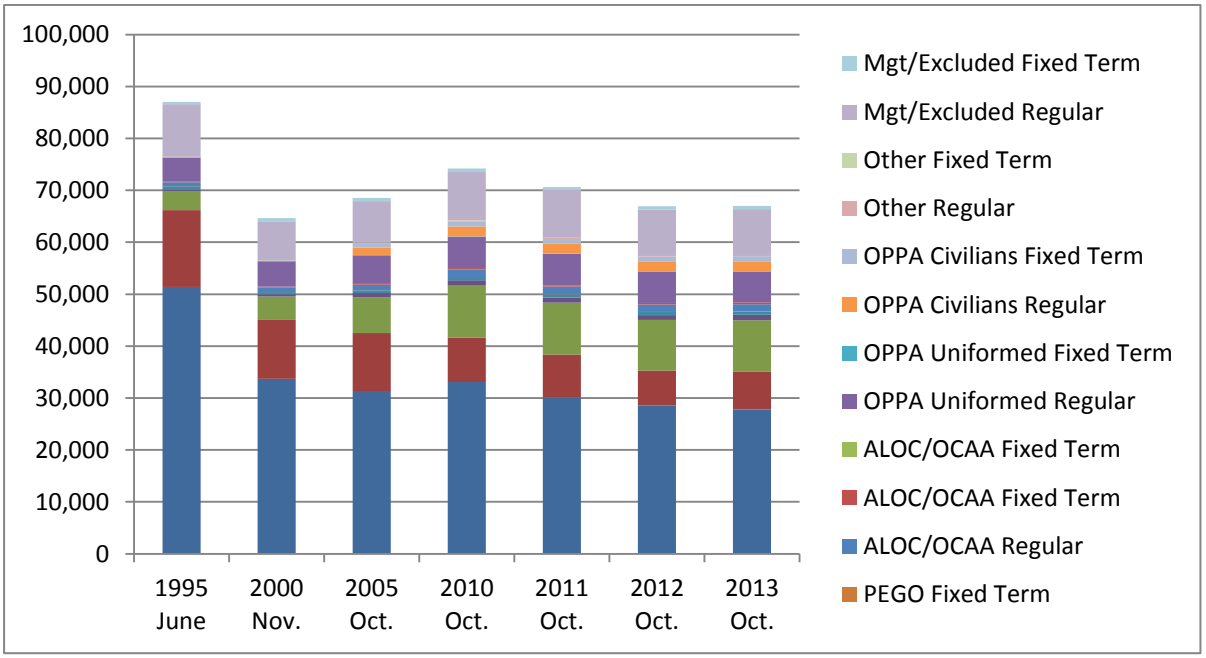
	Employment	Share (%)	Wage Bill (CAN$)	Share (%)
Government only	1,190,503	100.0	65,651,646	100.0
Federal government	181,272	15.2	13,837,908	21.08
Provincial and territorial government	92,710	7.8	6,820,420	10.39
Health and Social Services	236,448	19.9	13,686,844	20.85
Universities, colleges, vocational institutions	139,619	11.7	7,118,700	10.84
Local government	274,644	23.1	9,164,583	13.96
Local school boards	265,811	22.3	15,023,192	22.88
Government business enterprises (GBEs)	140,302	10.5	8,756,331	11.77
Government incl. GBEs	1,330,805	100.0	74,407,975	100.0

Source: Statistics Canada 2012.

Notes:

1. Employment data are not in full-time equivalent and do not distinguish between full-time and part-time employees. Includes employees both in and outside of Canada, as at December 31.
2. Federal general government data includes reservists and full-time military personnel.

Figure A.7. Ontario Public Service Employment, per contract type and Union Representation



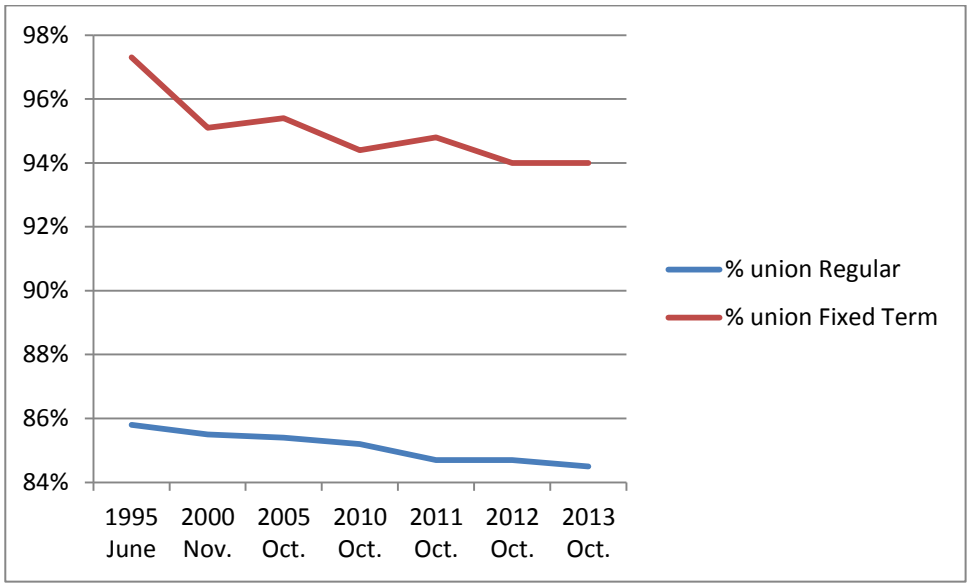
The total headcount declined by 23 per cent from 86,999 in 1995 to 66,981 in 2013. Regular workers headcount declined by 21 per cent while fixed-term employees declined by an even larger amount: 34 per cent. When one examines these trends by type of union, the largest declines were for the largest union that represents most of the clerical

workers, OPSEU: 47 per cent overall, 46 per cent for regular workers and 50 per cent for the fixed-term. At the same time, the largest white-collar union, AMAPCEO, grew by 179 per cent overall with regular ranks growing by 167 per cent and the fixed-term by a whopping 380 per cent although it should be noted that this growth was over a very small base of only 221 employees in 1995.

These numbers capture several overlapping trends. First, the overall reduction in employment became a focus for the Ontario government to reduce the fiscal deficit. Second, waves of restructuring government work starting in the 1990s saw many functions of the government, especially in areas of service delivery, spun out of the government into quasi-government agencies. Employment in these agencies is no longer counted as part of the core civil service because these workers are not on the government payroll. Third, a combination of technological and organizational changes over the years has shifted the skill requirements away from clerical work towards professional and managerial work. That explains the high employment growth in occupations that fall under the AMACEO union even as occupations represented by OPSEU declined sharply in employment.

As shown in the following graph, the overall rate of unionization declined only marginally from 87.9 per cent in 1995 to 85.9 per cent in 2013. The unionization rate for regular employees also fell marginally from 85.8 to 84.5 per cent over this period. Since most fixed-term employees acquire union representation under the law, their unionization rate has been historically higher but this rate, too, declined from 97.3 to 94 per cent.

Figure A.8. Ontario Public Service union membership, Regular and fixed term



Source: Government of Ontario, Ministry of Government Services. Data supplied by request of the author.

See Appendix for full data.

Notes:

1. Other Bargaining Units include: AOPDPS and PSAT

2. Management/Excluded include: MCP, SMG, DM, Excluded, OPP Commissioned Officers, First Nations Constables and VP & Principle Provincial Schools

3. PSAT data unavailable for 1995-2005.

Job quality and security

In general, the work arrangements for temporary staff are not as good as those of permanent staff. However, the benefits received are fairly similar, except for fringe benefits. For example, fixed-term employees receive almost the same benefits as full time employees after they have worked for six months continuously. Salaries for temporary workers are the same as the ones for permanent employees, as long as they carry out the same job (Gow & Simard, 1999).

In the time period between 2007 and 2008 the hourly rates paid to agencies by the federal government for temporary help workers ranged between $10 and more than $100 according to a study by the Public Service Commission of Canada (PSC 2010). The hourly pay was dependent on the level and occupational category. The average hourly rate was $39.84 while 58.5 per cent of the hires had hourly rates between $21 and $40. Nearly 9 per cent of contracts had hourly rates of $100 or higher. All leave and insurance coverage are only the minimum based on the Canadian Labour Code for temporary employees. Casuals and fixed-term employees who work for less than three months are the ones who receive the least.

Some major issues that were identified in earlier literature are the return of nepotism, problems with equity as well as the loss of knowledge, experience and loyalty. There are still signs that temporary and contractual work arrangements in the 1990s created channels of partiality. Until 1995 patronage was common in the area of hiring summer students in the government. It is interesting that in 1995 the staffing delegation which operated under the Ministry of Human Resources and which was responsible for monitoring this process was revoked. Officials who were interviewed also mentioned that it has happened that managers hired family members as casual employees. Some ministries removed the hiring decision from certain managers' task. Other departments implemented forms that the needed to be signed by the manager, stating that the new employee is not a relative of theirs. However, officials from the Office of the Auditor General said that "it would be too difficult and too costly to establish controls regarding this potential problem" (Gow & Simard, 1999).

Further disadvantages are the loss of skills and knowledge when the contracts of the temporary workers end (PSC 2010). In addition, difficulty has been experienced in finding temporary workers with skills and experience in areas with special requirements. Some department also found that they was unable to keep a worker long enough to meet their needs. Therefore, the cost of temporary help in terms of the time and energy required for training and orientation was observed to be large by several public servants (PSC 2010).

Another major concern in the Canadian public service is that the decision on when to engage temporary help is left in the hands of individual managers (PSC 2010). The problem is that managers are provided only with little guidance to determine when their practices actual result in avoiding the PSEA and its values. This can happen by using temporary help services to an unacceptable extent, or by continuing to use an individual temporary help service worker through a combination of contracts and PSEA non-permanent hiring procedures.

Impact on the delivery of public services

Gow & Simard (1999) documented the use of temporary workers in the Canadian Federal Government in the 1990s. They report that many civil servants in the 1990s were concerned about the increasing use of a temporary workforce within the Canadian public

sector. In their opinion, the use of temporary workers undermined some core values as the merit principle, loyalty, neutrality and secrecy. They viewed a temporary workforce as an inappropriate tool for use in government work. In their view, this practice was simplistically copied from the private sector without regard to the complexity of work in public administration. Not surprisingly, they foresaw many negative effects stemming from this approach to staffing key functions.

One arguably positive impact that emerged is the use of temporary employment was to chart a new career path in the civil service. Employing someone on a temporary, contractual or casual basis first, allowed the employer to "try out" an employee. However , such a practice also was criticized because it disregarded the values of fairness, equity and equality of access to positions in public administration for all citizens. An official at the Office of the Auditor General mentioned: "[With the new career path], in fact, it is the [temporary help] agency that determines who will become civil servant" (Gow & Simard, 1999). However, other anecdotal evidence suggests that this may be an overstatement. In many cases, a government department would first hire a contract employee directly for the maximum period allowed which is 90 days per calendar year in the federal government. Once the 90 days have been exhausted the employer would then continue to employ the same employee, subject to satisfactory performance on the job, but hire them through a temporary help agency. At the end of such a period of employment that can stretch to a year or longer, the employee may be hired by the government into a permanent position depending on availability of funds and satisfactory employee performance on the job. In such cases, the employee is selected essentially by the government employer and not by the temporary help agencies, which serves the will of the de facto employer, i.e., the government, rather than usurp its role in determining who gets hired into permanent jobs. There is no doubt, though, that in the era of government austerity, these alternate career paths have emerged as a substitute for direct and immediate hiring into permanent public service jobs.

The following is a current example of how this new career path has increased. A study published in 2010 by the Public Service Commission of Canada (PSC) looked at workers who were hired through temporary work agencies. The data for the research was collected between 2007 and 2008. The study examined the number of the workers initially recruited from temp agencies who were hired later as permanent employees under the Public Sector Employment Act (PSEA), within 180 days of the end of their contract with the temp agency. They found that 547 workers (or 20.5 per cent) of the 2,670 temporary help service workers in the study were hired as permanent employees under the PSEA within 180 days of their contract end date (PSC 2010). The initial point of entry for most of these workers was casual employment. In fact, the study found that roughly 64.9 per cent of all government employees who were hired under the PSEA started out as casual employees (PS 2010). This evidence lends strong support for the assertion that casual employment has become a career conduit for employment in the public service, but this opportunity may elude most casual workers.

It has also been shown that managers pay less attention to equity when they hiring short-term staff. This means that temporary summer student employment, where managers have such hiring practices, is not accessible to all equally as required by the policy.

The conflict of interest also has a small impact on public administration. Since most temporary staff work at lower levels of the system, there is a potential problem of lack of loyalty and commitment. However, the problem is not seen as so substantial because non-permanent employees usually perform at the same level as the permanent staff, and because many temporary employees expect to become permanent employees eventually.

Trade union density and collective bargaining coverage

Non-standard workers who are excluded from union representation in Canada appear to fall into two categories. First, workers with very short and limited terms of employment are sometimes excluded. Second, a much larger group of workers hired through temporary help agencies are generally excluded from joining the union because they are not considered to be government employees. These workers face the triple hazard of almost no employment security, lower wages and benefits and exclusion from representation and voice systems.

Casuals and fixed-term employees who work for less than three months do not have access to benefits under the collective agreement. After three months, term employees become part of the employees who fall under the collective agreements. This entitles them to receive many (but not all) of the benefits that permanent employees receive. When they reach six months of continuous employment the term employees qualify for the full range of benefits.

Fixed-term employees are also considered unionized after three months, and union dues are deducted from their salary. Before 1994, the time line for unionization was six months. The unions in the public sector also want casual employees to be unionized, but many managers oppose it because they anticipate that the advantages that this type of employment offers them could eventually disappear. A study from 1996 showed that service contracts have the lowest costs for one of two weeks of clerical work (Gow & Simard, 1999). Beyond two weeks, casual employment is an attractive alternative if the intention is to seek the lowest costs.

Other forms of social dialogue

Very little is known about other forms of dialogue between employers and employees in the civil services in Canada. This sector remains highly unionized and channels established and used by unions such as collective bargaining, grievance procedures and labour-management joint committees remain the principal forums for social dialogue.

Possible actions

According to the Public Service Commission, it is committed to consulting with the Treasury Board, the Public Works & Government Services department and individual organizations to identify solutions to address the issues of facilitating better guidance and advice to managers. Collaboration with others will also be considered in order to provide guidance to deputy heads on the use of temporary help services when conducting their human resources planning. In addition, information needs to be provided on how temporary help services can be used appropriately in relation to other non-permanent hiring mechanisms under the PSEA. The PSC would also look at proposing possible adjustments to the PSEA. In addition, the time required to staff a position under the PSEA is to be reviewed. It is further important to provide support and to encourage organizations to establish their own benchmarks. Last but not least, it will examine how to best monitor the use of temporary help services within the context of the PSEA and in light of recent contracting changes.

Part B. Brazil

The concept of public servant is the first step to initiate the analysis of non-standard working arrangements in the public service. According to the Brazilian Federal Constitution, a public servant has a formal work relationship with the direct Public Administration, public foundations and State owned enterprises (Articles 37 – 42). Thus, in Brazil, public servant is the worker who maintains a formal work relationship with State organs or units, performing a public service and being remunerated for it (Carvalho, et al. 2011, at 182).

The public servant-State work relationship can be of three types: statutory, public employment relationship and temporary. The statutory public servants (*estatutários*) are regulated by the Public Servants Law (the Single Judicial Regime, Law n. 8.112/1990) and occupy a public position (*cargo público*). Public service employees (*celetistas*) are regulated by the Consolidated Labour Laws (CLT), according to Federal Law No. 9.962/2000, and occupy a public post (*emprego público*). While there is no legal definition of which activities can be considered public employment (Silva 2013, at 14), the understanding is that the statutory regime covers all employees in the direct public administration.[3] The *temporary* relationship is destined to functions of direction, supervisor and high hierarchy assistants, such as commissioned functions and trust functions (*cargo em comissao e funçao de confiança*) (Carvalho et al. 2011, at 187).

In the three cases, the employment relationship is formal, protected by law and can be considered standard. The Public Administration, both in the federal and state level, cannot hire outside these formal arrangements explained above. The only exception is the hiring of outsourced workers through temporary help agencies. The non-standard working arrangement in the public service is the outsourcing (*terceirização*) of public service. The ILO has discussed this situation, stating that "[t]riangular employment relationships occur when employees of an enterprise (the "provider") perform work for a third party (the "user enterprise") to whom their employer provides labour or services" (ILO 2003, at 39).

Both statutory and public employees are recruited through competitive merit selection, as established by the Federal Constitution (Article 37, II). However, while statutory public servants have job stability after two years of work and have guaranteed a special retirement plan,[4] public employees may be dismissed through the unilateral decision of the Public Administration, provided that the Administration complies with a fair procedural for the dismissal (Federal Constitution, Article 41). In practice, a public employee will hardly ever be dismissed.

[3] Such interpretation is still in force, pending a possible suspension by the Supreme Court, focussing on ADIN No. 2135-4, and the new wording of Article 39 as enacted by Constitutional Amendment No. 19/98 as follows: "The Union, the States, the Federal District and the municipalities shall institute a council for policy of administration and remuneration of personnel, composed by civil servants appointed by the respective Powers."

[4] About the exclusion of public employees from the public servants retirement regime, see Art. 40 of the Federal Constitution and Dias and Macêdo 2010, at.132-133.

Typology of Non-standard Work in the Brazilian Public Service

Two main aspects of the Brazilian experience with outsourcing in the public service are: first, the use of outsourced workers to perform activities that are considered to be proper to the public service, i.e., functions covered by the career plan of the State organ or unit (outsourcing contrary to the public bidding law, No. 8.666/92); second, the non-compliance by the temporary help agency with the labour legal obligations of the outsourced workers. In the first case, the outsourced workers perform the same activity as a formal public servant, but do not enjoy the wage levels or statutory rights of public servants, such as stability.

Outsourced workers in the Public Administration are not public servants. Even though they render their services to the Public Administration, they hold an employment relationship with the temporary help agency[5] and, consequently, their work is regulated by the CLT. While there is no specific law regulating outsourcing, this type of hiring was allowed by the Superior Labour Court (Ruling no. 331, TST 2011), in the case of intermediary services, when there is no direct subordination[6] and the work is not performed by a designated contractor (*pessoalidade*).[7] On that occasion, the Court ruled as follows:

I. The hiring of workers through an intermediate enterprise is illegal and establishes an employment relationship directly with the principal, except in the case of temporary work.

II. The illegal hiring of a worker, through an intermediate enterprise, does not create an employment relationship with organs of the direct, indirect or foundational Public Administration

III. There is no employment relationship between the principal and the outsourced worker in the case of services of security guards, cleaning and conservation, nor in the case of specialized services related to intermediary activities of the principal, if there is no direct subordination and the service is not performed in a personal manner.

IV. The non-compliance with the legal labour obligations by the employer results in subsidiary liability of the principal, provided that the principal was part in the legal action.

V. The organs of the direct and indirect Public Administration are subsidiarily liable, as described by item IV, if the plaintiff proves its culpability in the non-compliance of an obligation with Law n. 8666, 21 June 1993, specifically of the duty to supervise the compliance of the contractual and legal obligations of the temporary help agency as the employer. This liability does not result from the

[5] We use the term "temporary help agency" to indicate an external service provider company. It is important to emphasize that in Brazil many of the outsourced relationships may be long term.

[6] The law does not define what constitutes direct or indirect subordination.

[7] *Pessoalidade* could be translated as 'personhood', meaning that it is essential that the work is done by the individual specified in the labour contract.

simple non-compliance of the labour obligations by the temporary help agency in the case of a regular execution of the contract.

VI. The subsidiary responsibility by the principal covers all the obligations related to the period of employment relationship that were subject of the legal claim.

Even though according to TST Ruling No. 331, the public organ is liable if it is proved that it failed to comply with its duty to supervise the proper execution of the contract by the temporary help agency, the liability only includes the payment of labour obligations. No employment relationship will be recognized between the public organ and the outsourced worker, even in the case of illegal outsourcing, due to the hiring of the outsourced worker through a contract and not through a merit selection as established by the Constitution in the case of public servants. Therefore, if recognized the illegality of the outsourcing, the outsourced worker will be entitled to the labour rights concerning the employment relationship with the temporary help agency, but not to any right as a formal public servant in the Public Administration.[8]

The conditions established by Ruling no. 331 have not been sufficient to effectively regulate this practice, which has been growing as a means to disguise the employment relationship by making a non-employment contractual arrangement with the principal in order to avoid the costs of an employment relationship (Viana et al. 2011, at 58). Thus, outsourcing or *terceirizaçao* is a process by which the worker is inserted in the productive process of a company (principal) without the corresponding employment relationship, which is formed with a subcontracting company (Delgado 2005, at 428.).

The first experience with outsourcing in the Brazilian Public Administration occurred with the administrative reform of 1967. It intended to make the public administration focus on planning, coordinating, supervising and controlling, and decentralizing other functions to private initiatives (Art. 10.7 of the Decreto-lei 200/67). Article 37, XXI of the 1988 Federal Constitution [9] authorized the subcontract of services by the public administration. In 1995, a second administrative reform was proposed and partly implemented in order to install a managerial model of public administration, based on the ideas of the New Public Management.[10] During this period, the size of the formal public service decreased and the number of subcontracted workers increased. On one hand, in the federal public administration, the number of new public servants decreased consistently by 9,000 in 1997, 7,700 in 1998, 2.100 in 1999,and and by 1,500 in 2000. On the other hand, in 2000, approximately 8,900 outsourced workers were allocated in high position jobs in the Federal public administration (Carvalho et al. 2011, at 75).

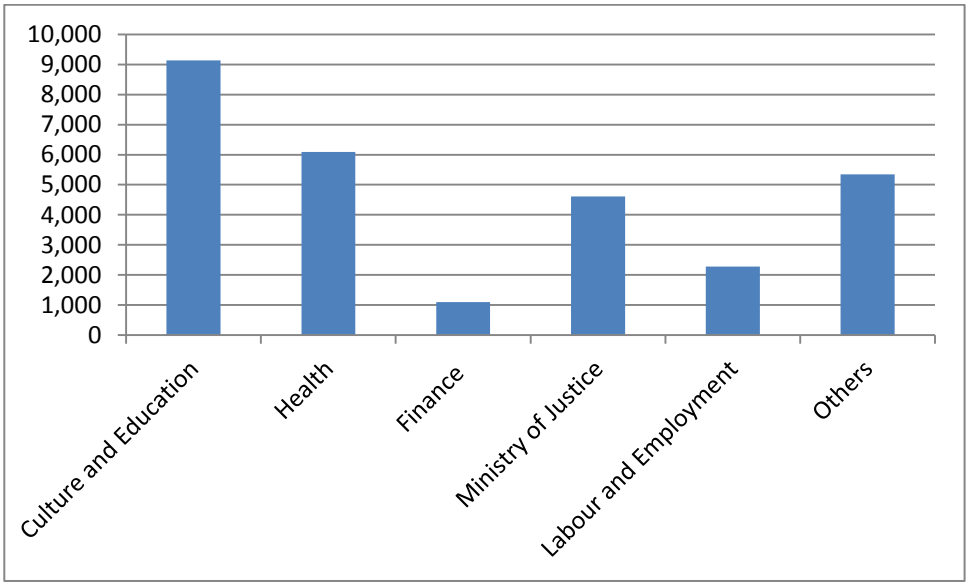
According to the Federal Accountability Tribunal, the number of illegally outsourced workers in organs of the federal public administration reached a total of 28,567 in 2009. The Ministry of Education and Ministry of Health lead with 9,134 and 6,092 illegal outsourced workers, respectively (Nogueira and Cardoso 2011, at 436).

[8] See TST 2009. For an example of a regional court decision, see TRT 2011.

[9] Regarding the evolution of the regulation of outsourcing in the Brazilian public administration, Cf. Pimenta 2011 and Viana et al. 2011.

[10] Constitutional Amendment 19/98; Carvalho 2011, at 74; and OECD 2010, at 47.

Figure B.1. Workers illegally outsourced by Federal Ministries, 2009



Source: Federal Accountability Tribunal – TCU (2010), Nogueira and Cardoso 2011, at 437

Despite a number of agreements between organs of the public administration, in the Federal and State level, with Public Prosecutors and Accountability Tribunals according to which the public organ compromised itself to replace outsourced workers with formal public servants, there is some evidence that the number of illegal outsourced workers has increased, even though there is no available data. The increase is due to lack of human resources planning by public administrators, who then use outsourcing as a way to avoid the formal and longer process of hiring through merit selection (Nogueira and Cardoso 2011, at 437). In addition to this factor, there is the political use of outsourcing again avoiding the more impartial merit selection used in the hiring of public servants (Mousinho 2013).

During the Lula government[11] of 2003-2011, there was a change in the direction toward the professionalization of the public service with the substitution of the outsourced workers by formal public servants. During Lula's first mandate (2003-2007), the government authorized the hiring of 100,000 new public servants, in part to replace outsourced workers (Carvalho 2011, at 80). Between 2003 and 2009, 118,933 were hired in the federal public service. However, the level of permanent public services did not reach the levels of 1996 (Gomes et al. 2012).

Sub-contracting by the public administration is regulated by the 1992 Public Bidding Law, No. 8.666/92. Under Federal Decree No. 2.271/97, Public Administrations can outsource the following activities: conservation, cleaning, security, surveillance, transportation, computer services, butler services (*copeiragem*), receptionists, reprographic services, telecommunications and buildings, equipment and installations maintenance (Cf. Lima 2007, at 65). Functions covered by the career plan of State organs or units cannot be outsourced, except in the case of explicit legal authorization. Federal Decree no. 2.271/97 articulates principles that are similar to Ruling no. 331: outsourced workers cannot be subordinated to an organ of public administration.

[11] The former President is universally referred to by his short name Lula. His full legal name is Luís Inácio Lula da Silva, since he incorporated the nickname into his legal name in 1982.

The Labour courts only exempt the Public Administration from recognizing an employment relationship with the outsourced workers. Even in the case of illegal outsourcing, when the outsourced worker is performing a function that cannot be outsourced under the terms of the Decree nº 2.271/97, the labour courts cannot recognize an employment relationship between the Public Administration and the outsourced worker, since the Federal Constitution in its Article 37, sec. II, requires that all public servants must be hired through a public selection. In such cases, the Public Administration is liable for the payment difference in the remuneration of the outsourced worker and the public servant who performs the function (Silva 2013, at 11).

As a reaction to lawsuits presented before labour courts and questioning outsourcing in the public service, the government of the Federal District proposed a constitutional question to the Brazilian Supreme Court on the constitutionality of the Article 71, sec. 1 of Law No. 8.666/93 that deny the Public Administration liability when the service provider company does not comply with it duty to comply with the rights of outsourced workers. The Supreme Court clarified that Article 71 is constitutional (STF 2010), changing the understanding of the Superior Labour Court's ruling no. 331 that recognized the subsidiary liability of the Public Administration in such cases. Many labour law courts' decisions that had already recognized the liability of the Public Administration were then suspended (Almeida 2013, at 413).

The Supreme Court's decision caused a change in the Superior Labour Court's ruling n.331 that accepted the subsidiary liability of the Public Administration. The new writing of the ruling n. 331 establishes that the Public Administration' liability is not automatic in the case of the service provider company's non-compliance with outsourced workers' labour rights. However, the amended ruling still recognizes the extra-contractual liability of the Public Administration when the Administration did not comply with its duty to supervise the correct execution of the outsourcing contract and, consequently, of the temporary help agency's compliance with the workers' labour rights.[12] Therefore, in each case, the Public Administration has the onus of proving that it has exercised due diligence (Freire 2011, at 288, 300-301).[13] The Labour Court will consider the concrete aspects of each case.

Job quality and security

Notwithstanding the existing regulations, labour conditions of outsourced workers in Public Administration are still unstable. The main problems are the use of outsourcing for illegitimate purposes (such as the indication of outsourced workers by political groups), illegal outsourcing (for example, outsourced workers performing the same activities of public servants), and non-compliance with outsourced workers' labour rights, including health and safety rights. The latter cases represent close to100,000 lawsuits in the labour courts by outsourced workers who did not receive their labour rights from their employer – the temporary help agency (Bonfanti 2011). In many cases the employer receives the payment from the Public Administration, does not pay the

[12] Concerning the Public Administration's obligation to supervise the execution of the contract, Cf. Art. 58 of Law No. 8.666/93.

[13] The Supreme Court has accepted this understanding followed by the Superior Labour Court. (Cf., e.g., the following STF decisions: Rcl 8.475/PE; Rcl 11.917/SP ; Rcl 12.089/RJ ; Rcl 12.310/SP ; Rcl 12.388/SC ; Rcl 12.434/SP ; Rcl 12.595/SP, ; Rcl 13.933/ AM; and Rcl 14.623/ES, available at: http://www.stf.jus.br/portal/jurisprudencia/pesquisarJurisprudencia.asp.

employees and the company cannot be located and the money paid by the Public Administration cannot be accounted for. According to the Public Labour Prosecutor, late or non-paid wages of public service outsourced workers are one of the main labour relations problems in Brazil today (MPT 2013). Many of these temporary help agencies don't have an on-going presence and are created specifically to be part of a contract with a Public organ. As a result of recurrent violation of the rights of outsourced workers, a high number of outsourced workers that do not receive their labour rights go to the labour courts, suing both the employer and the Public Administration. For example, in a period of almost 2 years (between 02 January 2010 and 20 November 2012), 17,718 lawsuits were proposed in the Labour Court asking for the Public Administration's liability in cases of outsourcing (Silva 2013, at 5). Since in many of these lawsuits, the owners of the temporary help agency could not be located or had no patrimony to guarantee the compliance with the labour rights, the labour court would recognize the subsidiary liability of the Public Administrations that would then have to pay for their labour rights (in addition to the value already paid to the temporary help agency).

In 2010, a study group was composed by the Federal Accountability Tribunal, the Ministry of Planning, Budget and Management, Ministry of Finance, Sao Paulo Accountability Tribunal and the Federal Public Prosecutor to discuss alternatives to secure the labour rights of outsourced workers in the public administration. Among solutions proposed by the group, we emphasize two proposals. First, the retention by the public organ of the amount correspondent to the labour legal obligations of the temporary help agency in the end of the contract. The public organ then pays the outsourced workers directly. The Federal Accountability Tribunal itself has made an agreement with the Labour Public Prosecutor and trade unions to pay directly 300 outsourced workers at the end of a contract with a temporary help agency.[14] Also, the Labour Prosecutor suggests that every outsourcing contract involving the Public Administration should establish a mandatory deposit in a specific bank account of part of the payment for the temporary help agency as a guarantee for the workers' payment, in order to avoid the recurrent problem of late or non-paid wages of public service outsourced workers and the excessive number of lawsuits.[15]

Impact on the delivery of public services

The impact of the use of non-standard working arrangements on the delivery of the public service can be well exemplified in the case of health services in Brazil. Since the implementation of the Unified health System (*Sistema Único de Saúde*, SUS) more than twenty years ago, Brazil has started a process of management and operational decentralization of health services together with the expansion of the services. This process, together with the advent of NPM and neoliberal proposals of the 1990s promoting indirect forms of hiring in the public administration, has resulted in many problems associated to the precarisation of the workforce (MS, 2006, at 11-12).

The SUS offers health care to all Brazilians and has its management decentralized through the federal, provincial and municipal spheres. According to the IBGE, health care is on the main sectors in the Brazilian economy, generating around 3.9 million jobs and occupying more that 10 per cent of the labour force (Machado et al. 2010). The SUS showed no concern for its workers during its first decade, neither to a human resources

[14] Grupo de Estudos 2010.

[15] MPT 2013; Cf. Grupo de estudos 2010, at 27.

policy compatible with a system of Universalist conception (Machado 2005, at 31). As results of this absence of policies, the author emphasizes the lack of career jobs, the renew and expansion of new activities through the precarisation of work, the expansion of health workers teams without any regulation or compromise with the principles of SUS and a growth of health related courses that were not based on any reasonable criteria of qualification for the work at SUS.

According to the Federal Ministry of Health, the precarisation of the work in the health sector has been identified as an obstacle to the development of the health public system. This problem has compromised the workers' relationship with the health system and has harmed the quality and the continuity of essential services provided by the SUS. The high turnover among health professionals and the low satisfaction with the job that result from the unstable forms of contract have harmed the dedication of these professionals to their work (MS 2006, at 12 and 17). According to Alves and Araújo, the linkage between the health workers and the public has been weakened in part because of the high turnover among professionals and the difficulty in attract these professionals to smaller and more remote cities (Alves and Araújo 2011, at 64).

In 2003, the Ministry of Health created the National Inter-institutional Committee on de-precarisation of Work in the SUS. Its objective is to elaborate policies and to formulate guidelines aiming the de-precarisation of the work relation of health workers in the SUS. Managers from the three levels of government (federal, provincial and local) and trade union leaders discuss alternatives. Its aim is to promote the creation of work relationships that would guarantee, rights and stability to workers on one hand, and the organization of the health services offered to the population on the other hand. The premise is that the instability of the work relationship has direct effects on the quality of the services offered to the population and on the regularity of the work performed by health workers (MS 2006, at 10). An agreement signed by the federal government and the federal accountability tribunal in 2003 establishing the compromise of the government in replace outsourced worker for permanent public servants constitutes another step in the way to the de-precarisation of work in the health sector. Today, due to these efforts, there is an institutional plan to regulate labour relations in the health sector and to substitute outsourced and informal temporary workers for permanent public servants (Machado et al. 2010).

Trade union density and collective bargaining coverage

In Brazil, the law imposes the exclusive representation of only one trade union for each occupational category (for employees). Unlike the North-American model, exclusive representation is not achieved through an election among workers part of the category or any other measure of the trade union's representativeness. Representativeness is obtained through a formal trade union registration process in the Ministry of Labour. The system works through a first-come, first-serve basis. "If a trade union is registered by the Ministry of Labour representing a certain category, this recognition will prevent any other trade union from challenging this representation" (Gomes and Prado 2011, at 108). Also, a single union must represent all workers in a particular region, which must not be smaller than a municipal district. This **"**single trade union rule**"** is known as *unicidade sindical*. [16] The *unicidade* rule is found in Article 8,

[16] This phrase does not mean trade union unity, as some English speakers mistakenly assume. An approximate translation might be trade union 'unicity', but for the fact that the word does not exist in English. *Unicidade* means 'singleness' or 'uniqueness'. According to Article 8(II) of the

Section II, of the Constitution, and it applies to all trade unions. In accordance with this system, all public servants are represented by trade unions, since they form an occupational category.

This corporatist system entails that legal representation by a trade union is disassociated from trade union membership. However, the strength of a trade union and its capability of promoting real changes and dialogue still depends on its membership. Trade union membership in the public service declined by 11.7 per cent; from 39.2 in 2005 to 34.6 per cent in 2011 (FPA 2013, at 7-8). There is no data available on union membership among outsourced workers in the public service, since these workers are spread out in different occupational categories that performed outsourced services in the public service.

The Federal Constitution recognizes the right of public servants to join a trade union (Article 37, VI) and their right to strike in accordance to the law (Article 37, VII). But no enabling bill has been proposed, and the law is silent about their right to collective bargaining. Because there is no legal provision on their right to collective bargaining, public servants are not entitled to collective bargaining. Even though Brazil ratified ILO Convention 151 in 2010, the government argues that the ILO Convention needs further regulation that still has not been proposed.[17]

Challenges to freedom of association and the right to collective bargaining

The corporatist system described above also applies to outsourced workers in the public service. Two differences concerning trade unions and collective bargaining between public servants and outsourced workers in the public service should be mentioned. First, since outsourced workers form a different occupational category from the public servants (for example, workers in the cleaning service or in security service), they are represented by different trade unions from the public servant's ones. Second, outsourced workers are entitled the right to collective bargaining, since they are considered workers in the private sector. The collective negotiation is done between the outsourced workers trade union and the temporary help agency's trade union.[18]

Despite the legal recognition of their right to unionize (with the restrictions imposed by the singleness rule) and collective bargaining, outsourced workers have a hard time exercising these rights. The main challenge they face derives from the precarious condition of their employment. As mentioned above, many temporary help agencies cannot be located after the contract with the Public Service is finished or even during the existence of the contract without paying the labour obligations to the outsourced workers

Federal Constitution, 'It is forbidden to create more than one union, at any level, representing a professional or economic category, in the same territorial base, which shall be defined by the workers or employers concerned, and which may not cover less than the area of one municipality.'

17 For a general analysis of this subject, see Resende 2012.

18 In Brazil, employers are also represented by trade unions, in accordance with the corporatist system.

(DIEESE 2011, at 14). To develop a continuous and fruitful collective bargaining with companies that are surrounded by such insecurity is extremely difficult.[19]

In a study developed by the Inter-Union Department of Statistics and Socioeconomic Studies (DIEESE) on the inclusion of the subject of outsourcing in the collective negotiation, analysing chosen collective agreements from different professional categories from the private sector, it concludes that most clauses "aim to regulate the uses that companies do of outsourcing, guaranteeing labour standards or ensuring guarantees for the employees" (DIEESE 2012, at 6). The most common clauses are concerning: (1) rules for contracting outsourced workers, which include restrictions on the hiring of outsourced workers, requirements to and supervision of temporary help agencies, responsibilities of the contractor; (2) guarantees to outsourced workers in collective agreements with the temporary help agency; (3) the process of outsourcing itself or of de-outsourcing, that is bring the service that was outsourced back to the contractor; (4) trade union clauses, such as the creation of a union's committee on outsourcing and access to the outsourcing contracts (DIEESE 2012, at 6).

Analysing the guarantees outsourced workers negotiate with temporary help agencies, DIEESE observes that the most common guarantee is the maintenance of employment in case the temporary help agency is replaced. In this case, workers affected by the replacement of the agency would have their jobs guaranteed. The clause would state a compromise for the new temporary help agency to hire these workers or a recommendation for them to do so. Other clauses guarantee a previous notification in case of change in the local of the workplace, and the provision of payment of wages and additional labour benefits in the total value of the outsourcing contracts (DIEESE 2012, at 12).

Other forms of social dialogue

There is not enough use of forms of social dialogue involving outsourced workers in order to address the challenges in exercising their freedom of association and collective bargaining rights.

Since Lula's government, the Ministry of Planning, Budget and Management has installed rounds of negotiation between the federal government and public servants' trade unions, called the Permanent Negotiation Forum (*Mesa de Negociaçao Permanente*). Through this, the government aimed to institutionalize a channel for the negotiation of conflicts between the public administration and public servants. The forum also allowed the dialogue between the administration and the public servants through their trade unions to think and discuss the State and the role of the public service (Gomes et al. 2012).

In 2012, this initiative was institutionalized in the figure of the Secretary of Labour Relations in the Public Service, which is responsible for dealing with labour conflicts and for the negotiation between the public administration and public servants' trade unions (Ministry of Planning. 2012). The goal of the Secretary is to increase democratization in the public service's labour relations in accordance with Convention 151 of the ILO. Even though outsourced workers represent a significant parcel of workers in the public service,

[19] For an example of clauses on outsourcing in collective agreements, see DIEESE 2012. The study does not include workers outsourced in the public service.

the Secretary's mandate does not include labour conflicts that involve outsourced workers in the public service.

There are two important examples of social dialogue initiatives involving outsourced workers and their trade unions. First, the negotiation rounds promoted by the Labour Public Prosecutor with participation of temporary help agencies, public administration and outsourced workers' trade unions. These negotiation rounds have an important role in solving topic conflicts resulting from the non-payment of the labour rights by the temporary help agencies (O Globo 2013). There is a need for a space where outsourced workers and their trade unions can discuss with the public administration and the agencies the general problems faced by those workers not to solve conflicts that already exist, but also aiming to present these conflicts to occur.

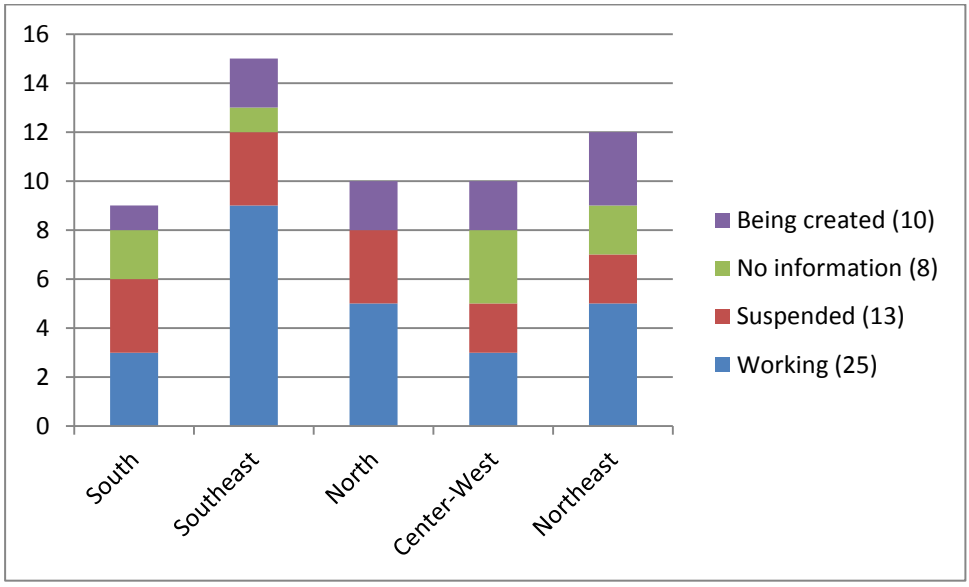
The second example is the Permanent Negotiation Forum of the Unified Health System (*Mesa de Negociação Permanente do Sistema Único de Saúde*, MNP). Created in 1993, the MNP had its work interrupted several times until it has been relaunched in 2003 and has functioned regularly since then. The health sector has been subject to many labour conflicts as a result, on one hand, from the reform enacted during the Cardoso presidency in the 1990s, which allowed the more intensive use of outsourcing; and on the other hand, from the expansion and the decentralization of the public health system among the federal, provincial and municipal levels enacted since the 1988 Federal Constitution (Cláudio Gomes et al. 2012).

The MNP constitutes a permanent space for negotiation between employers and workers of SUS on all issues connected to work force in health services, including the use of non-standard workers (MNP 2003, at 11). We can cite two important differences between the MNP and the two previous initiatives - the rounds of negotiation promoted by the federal government and the rounds of negotiation promoted by the Labour Public Prosecutor. First, the MNP involves all types of workers and employers, irrespective of the type of their work relationship, as long as they performed the service to the public administration; therefore, outsourced workers and their employers can participate in the MNP. The MNP is constituted by representatives of different federal ministries and confederations and federations of employers and workers in health services (MNP 2003, at 12). Second, the MNP is a proactive forum, that is, it aims to solve the conflicts before the parts take them to the courts. In addition to negotiating conflict, among the MNP's activities is to propose public policies to improve labour conditions of health workers. As it is explained in the protocol that constitutes provincial and municipal MNPs, among the objectives of a MNP is to build alternatives and ways to improve labour conditions, create a permanent wage policy translated in a plan of wages, jobs and career, based on policies that promoted democratic labour relations, valorisation of SUS' workers and better quality for the services offered to the population (MNP 2003, at 24).

Besides the federal MNP, provincial and municipal MNPs have been created in order to act in an articulated way with the federal MNP, building a National System of Permanent Negotiation of the SUS. Each MNP is constituted by two groups: the government and the trade union. The government group can be composed by public managers, private temporary help agencies contract by SUS; the trade union group is composed by health workers' trade unions.

According to the federal government, in 2013, there were 56 MNPs – 21 provincial MNPs, 31 municipal MNPs and 4 sectorial MNPs.

Figure B.2. Geographical distribution of National Negotiating Tables (MNPs)



Source: MNP website, www.saude.gov.br/mesa

Possible actions

The main challenges faced by outsourced workers' trade unions are related to the precariousness of their employment relationship. There is a certain consensus among different actors and in the literature that there is a need for a law that would regulate the use of outsourced work, since the TST ruling 331 is not being able to solve all the conflicts involving outsourced workers and temporary help agencies.

Even though there is a certain agreement about the need for a law on outsourcing, there are very different positions on the perspective that should be adopted by this law. A law that would allow the hiring of outsourced work not only in intermediate activities, but also in the main activity of the employer is supported by employers and employers' organizations, such as the Temporary Help Agencies' Organization from the State of Espírito Santo (*Sindicato das Empresas de Prestação de Serviços no Estado do Espírito Santo* – SINDEPRES). A more recent bill, PL 4.330/2004-A, goes on this direction and has been opposed by the main trade union federations. One of the critiques argues that it would allow the hiring of outsourced workers in all activities performed in the public administration, thus revoking Decree 2.271/1997 and increasing the use of outsourced workers in the public administration (Santos-Amorim 2013). Trade union federations, employers and the government are currently discussing the changes in this bill with the aim of adopting a law that will regulate the use of outsourced workers. In this debate, one of the proposals is to elaborate a specific law on the hiring of outsourced workers in the public service.

The debate on the PL 4.330/2004-A opens a window of opportunity for the ILO, the government and social partners to promote a deep discussion on the regulation of outsourcing and how to change the way outsourcing is used in Brazil, both in the private and public sectors. Three factors might justify a specific regulation on outsourced work in the public service: the size and importance of outsourced work in the public service, the insecurity of their labour conditions, and the absence of an effective space for collective negotiation in the case of outsourced workers in the public service.

The case of health sector workers in the SUS provides an important example of how institutional openness to dialogue and negotiation can create a way to decrease the instability of outsourced work through the development of ways to guarantee the rights of these workers or by the adoption of policies to replace outsourced workers with public servants through a public selection. The ILO can cooperate in this debate by making the dialogue possible, giving space to outsourced workers to be part of the conversation and providing expertise in the development of those policies.

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Data Appendix

Figure 1. Nonstandard Work Arrangements in U.S. Core Federal Government, 1995-2005

Year	Temporary Help Services	On- Call and Seasonal	Contract Company	Part Time	Total General Federal Government (b)
1995	22,000	99,000	5,000	212,000	1,865,000
1997	23,000	100,000	7,000	202,000	1,590,000
1999	24,000	90,000	--- (c)	159,000	1,724,000
2001	28,000	95,000	5,000	151,000	1,565,000
2005	37,000	91,000	12,000	148,000	1,708,000

Figure A.1. Employment by Non-standard Status in Public Administration in Canada: 1997-2011 (thousands)

		Perm. FT		Perm. PT		Seasonal		Contract		Casual		Total	
Year		#	%	#	%	#	%	#	%	#	%	#	%
1997	Total	7,698	80.5	523	5.5	293	3.1	843	8.8	209	2.2	9,565	
	Female	3,142	40.8	379	72.4	112	38.3	480	56.9	127	60.8	4,239	44.3
1998	Total	7,508	80.3	538	5.7	317	3.4	804	8.6	189	2.0	9,353	
	Female	3,088	41.1	401	74.9	147	46.2	480	59.7	115	60.9	4,231	45.2
1999	Total	7,537	80.9	429	4.6	249	2.7	919	9.9	188	2.0	9,321	
	Female	3,257	43.2	329	76.8	114	45.8	511	55.6	109	58.3	4,321	46.4
2000	Total	7,510	80.8	400	4.3	209	2.2	963	10.4	213	2.3	9,295	
	Female	3,289	43.8	304	76.0	87	41.7	569	59.1	123	57.5	4,371	47.0
2001	Total	7,575	80.3	380	4.0	225	2.4	1,044	11.1	212	2.2	9,437	
	Female	3,281	43.3	288	75.7	103	45.7	619	59.2	133	62.5	4,423	46.9
2002	Total	7,833	82.2	402	4.2	200	2.1	936	9.8	164	1.7	9,535	
	Female	3,425	43.7	286	71.3	91	45.4	584	62.5	86	52.2	4,473	46.9
2003	Total	8,087	81.9	396	4.0	207	2.1	1,030	10.4	160	1.6	9,879	
	Female	3,724	46.1	290	73.3	84	40.7	581	56.5	95	59.3	4,775	48.3
2004	Total	8,093	81.6	434	4.4	243	2.5	954	9.6	195	2.0	9,919	
	Female	3,703	45.8	332	76.6	102	41.9	562	58.9	108	55.5	4,807	48.5
2005	Total	8,214	82.4	413	4.1	225	2.3	949	9.5	171	1.7	9,972	
	Female	3,832	46.6	295	71.6	105	46.8	530	55.8	96	56.0	4,858	48.7
2006	Total	8,143	81.4	394	3.9	287	2.9	999	10.0	185	1.9	10,008	
	Female	3,759	46.2	280	71.0	145	50.6	575	57.6	115	62.2	4,875	48.7
2007	Total	8,518	82.1	420	4.0	217	2.1	1,015	9.8	210	2.0	10,380	
	Female	4,084	47.9	305	72.6	87	40.0	591	58.3	124	59.1	5,191	50.0
2008	Total	9,129	82.9	413	3.8	237	2.2	1,052	9.6	181	1.6	11,011	
	Female	4,440	48.6	278	67.3	107	45.3	568	54.0	103	56.8	5,496	49.9
2009	Total	9,280	82.4	457	4.1	233	2.1	1,085	9.6	204	1.8	11,259	
	Female	4,498	48.5	332	72.7	104	44.8	641	59.0	135	65.9	5,709	50.7
2010	Total	9,529	83.0	415	3.6	171	1.5	1,148	10.0	213	1.9	11,475	
	Female	4,682	49.1	305	73.5	72	41.8	637	55.5	116	54.8	5,812	50.6
2011	Total	9,609	82.5	397	3.4	210	1.8	1,250	10.7	188	1.6	11,654	
	Female	4,786	49.8	306	77.0	97	46.0	682	54.6	101	53.4	5,971	51.2

Figures A.2 & A.3. Employment and union membership by Non-standard Status in Public Administration in Canada: 1997-2012 (thousands, per cent)

E= Employees
U= Union Members
%U = Percentage of union affiliation

	Perm. FT			Perm. PT			Seasonal			Contract			Casual		
Year	E	U	% U	E	U.	% U	E	U	% U	E	U	% U	E	U	% U
1997	7,698	6,003	78.0	523	249	47.7	293	84	28.7	843	356	42.3	209	109	52.0
1998	7,508	5,744	76.5	536	236	44.0	317	105	33.0	804	331	41.2	189	90	47.4
1999	7,537	5,685	75.4	429	204	47.7	249	91	36.5	919	443	48.2	188	95	50.4
2000	7,510	5,671	75.5	400	197	49.3	209	72	34.4	963	517	53.7	213	95	44.4
2001	7,575	5,796	76.5	380	224	58.8	225	856	38.2	1,044	551	52.7	212	95	45.0
2002	7,833	5,971	76.2	402	211	52.4	200	75	37.7	936	535	57.2	164	84	51.2
2003	8,087	6,256	77.4	396	234	59.1	207	91	44.2	1,030	587	57.0	160	80	50.0
2004	8,093	6,291	77.7	434	268	61.9	243	104	42.6	954	519	54.4	195	97	49.8
2005	8,215	6,357	77.4	413	252	61.1	225	103	45.7	949	492	51.9	171	96	56.4
2006	8,1423	6,251	76.8	394	214	54.3	287	124	43.2	999	534	53.5	185	108	58.5
2007	8,518	6,562	77.0	420	228	54.4	217	86	39.7	1,015	521	51.4	210	117	55.7
2008	9,129	7,041	77.1	413	262	63.5	237	98	41.5	1,052	556	52.8	181	103	56.8
2009	9,280	7,122	76.7	457	245	53.5	233	105	45.2	1,085	510	47.0	204	84	41.1
2010	9,529	7,345	77.1	415	261	62.9	171	70	40.9	1,148	642	55.9	213	125	58.7
2011	9,609	7,327	76.2	397	243	61.1	210	100	47.5	1,250	578	46.2	188	105	55.7
2012	9,612	7,253	75.5	379	214	56.5	212	109	51.2	1,074	610	56.8	193	108	56.1

Figure A.4. Employment in the Canadian federal civil service by category: 1986-1997 (thousands)

Year	Full Time		Part Time		Term (≤ 3 mos.)		Term (≥ 3 mos.)		Seasonal		Casual		Total
	#	%	#	%	#	%	#	%	#	%	#	%	
1986	202	83.3	3.6	1.5	16.7	6.9	18.6	7.7	1.2	0.5	-	-	242.4
1988	191	80.6	4.3	1.8	17.7	7.5	22.1	9.3	1.5	0.6	-	-	237.0
1990	190	79.5	4.3	1.8	20.2	8.4	23.9	10.0	1.6	0.7	-	-	239.7
1992	193	79.5	4.6	1.9	21.0	8.7	23.1	9.5	1.6	0.7	-	-	242.9
1994	192	83.0	5.0	2.2	26.1	11.3	6.1	2.6	1.4	0.6	0.7	0.3	231.4
1996	173	83.2	5.1	2.5	21.6	10.4	2.6	1.2	1.4	0.7	4.4	2.1	208.0
1997	158	81.3	4.7	2.4	22.3	11.5	3.0	1.6	1.3	0.7	5.0	2.6	194.4

Figures A.5 & A.6. Public Service Employment Act population, by year, 2004-2013 (March)

	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
Percentage Change	1.7	5.3(a)	2.8	1.9	4.1	4.5	3.4	0.3	-2.4	-5.4(b)
Indeterminate	150,977	161,443	164,140	167,427	174,577	183,932	190,317	191,693	190,302	180,378
Specified term	15,734	13,969	13,831	13,559	13,583	13,171	13,478	12,453	9,944	9,437
Casual	4,744	4,679	6,847	6,946	7,477	7,162	7,279	7,685	6,731	6,688
Student	2,647	3,174	3,536	4,059	4,238	4,682	4,971	4,878	4,633	3,747
TOTAL	174,102	183,265	188,354	191,991	199,875	208,947	216,045	216,709	211,610	200,250

Figures A.7-A.8. Ontario Public Service, by bargaining unit

Bargaining Unit Representative	Contract type	1995 June	2000 Nov.	2005 Oct.	2010 Oct.	2011 Oct.	2012 Oct.	2013 Oct.
OPSEU	Regular	51,394	33,705	31,159	33,107	30,112	28,595	27,763
	Fixed Term	14,787	11,340	11,342	8,565	8,265	6,721	7,355
	Total	66,181	45,045	42,501	41,672	38,377	35,316	35,118
AMAPCEO	Regular	3,694	4,471	6,857	9,934	9,997	9,729	9,864
	Fixed Term	221	476	847	1,087	986	935	1,061
	Total	3,915	4,947	7,704	11,021	10,983	10,664	10,925
PEGO	Regular	671	389	481	578	586	570	540
	Fixed Term	11	14	16	19	30	15	28
	Total	682	403	497	597	616	585	568
ALOC/OCAA	Regular	759	870	1,148	1,484	1,481	1,460	1,469
	Fixed Term	173	199	249	269	264	289	324
	Total	932	1,069	1,397	1,753	1,745	1,749	1,793
OPPA Uniformed	Regular	4,565	4,849	5,280	6,007	6,009	6,010	5,954
	Fixed Term	106	140	158	73	68	70	45
	Total	4,671	4,989	5,438	6,080	6,077	6,080	5,999
OPPA Civilians (eff. Jan 3, 2002)	Regular			1,462	1,912	1,907	1,919	1,941
	Fixed Term			841	917	959	946	934
	Total			2,303	2,829	2,866	2,865	2,875
Other Bargaining Units	Regular	93	35	35	291	290	274	271
	Fixed Term	2	3	98	17	12	11	13
	Total	95	38	133	308	302	285	284
Management /Excluded	Regular	10,092	7,511	7,913	9,267	9,090	8,792	8,800
	Fixed Term	431	625	646	648	585	574	619
	Total	10,523	8,136	8,559	9,915	9,675	9,366	9,419
Total Headcount	Regular	71,268	51,830	54,335	62,580	59,472	57,349	56,602
	Fixed Term	15,731	12,797	14,197	11,595	11,169	9,561	10,379
	Total	86,999	64,627	68,532	74,175	70,641	66,910	66,981
% Union	Regular	85.8%	85.5%	85.4%	85.2%	84.7%	84.7%	84.5%
	Fixed Term	97.3%	95.1%	95.4%	94.4%	94.8%	94.0%	94.0%
	Total	87.9%	87.4%	87.5%	86.6%	86.3%	86.0%	85.9%

Figure B.1. Workers Illegally outsourced by Federal Ministries, 2009

Organs of the Federal Administration	Number of outsourced workers
Ministry of Culture and Education	9,134
Ministry of Health	6,092
Ministry of Finance	1,104
Ministry of Justice	4,611
Ministry of Labour and Employment	2,277
Others	5,349
Total	28,567

Figure B.2. Geographical distribution of National Negotiating Tables (MNPs)

	Working	Suspended	No information	Being created
South	3	3	2	1
Southeast	9	3	1	2
North	5	3	0	2
Center-West	3	2	3	2
Northeast	5	2	2	3
TOTAL	25	13	8	10