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The Strategic Use of Temporary Agency Work – Functional Change of a Non-standard Form of Employment

Hajo Holst, Oliver Nachtwey, Klaus Dörre

Using data from the German case, the paper examines a new form of client firms' utilization of temporary agency work that is distinctly different from traditional forms responding to production problems. Client firms, particularly from manufacturing, increasingly use temporary agency workers as a quasi-permanent component of their workforce. Management's primary aim is to establish a "security net" for the short-term profits by bypassing German statutory dismissal protection. However, since client firms' regular employees and the temporary agency workers tend to perform the same tasks, a secondary effect of the strategic use of temporary agency work can be observed: the disciplinary effects associated with precarious work are tangibly amplified and expanded.

Key words: temporary agency work, work, labour relations, corporate governance, Germany

1. Introduction

Temporary agency work (TAW) has experienced a dramatic development in Germany over the last economic cycle. First, no other industry experienced comparable job growth during the boom between 2005 and 2008. The number of workers employed by agencies more than doubled to over 800.000 on the eve of the current crisis (Bundesagentur 2008: 5). Manpower, Adecco and randstad, all international players, were the three largest growing employers

in Germany both in 2006 and in 2007, which reflects client firms' increasing reluctance to directly hire workers covered by statutory dismissal protection. Second, in the same way the industry benefited from the boom years, it was subsequently hit hard by the economic crisis following the breakdown of the Lehman Brothers Bank in September 2008. Between 2008 and 2009, the number of temporary agency workers decreased by more than 300.000. Client firms particularly in the manufacturing sector retained their core workforces but laid off a huge number of their so called "temps". Together, these two developments: the enormous expansion during the boom and the rapid contraction in the crisis, demonstrate the TAW-sector's increasing responsiveness to the economic cycle, and moves the German sector closer to its counterpart in the US (see Theodore/Peck 2002: 479).

The sector's close link to the economic cycle is a direct consequence of the reform of its regulatory framework in 2003. Compared to the Anglo-Saxon countries, Germany was traditionally characterized by a rather rigid regulation of TAW. In order to protect the standard form of employment, regulation constrained agencies' arbitrariness as employers and restricted client firms' use of TAW. In its initial version from 1972, the Labour Placement Act limited the period a worker could be hired out to a client firm to three months, and prohibited the use of fixed-term contracts by agencies (Bode et al. 1994). Despite numerous reforms, the maximum period of assignment and the restrictions on fixed-term contracts remained cornerstones of the German regulation until the end of the millennium. However, following a period of intensive lobbying by international agencies as well as powerful German business interests, the TAW-sector was deregulated in 2003. The maximum-period of work assignments and the remaining restrictions of the use of fixed-term contracts were removed (Weinkopf/Vanselow 2008). The reform enforced by the red-green government moved regulation in Germany closer to the traditionally liberal models in the Anglo-Saxon countries. Furthermore, due to its numerous exemption rules, the European directive on TAW, adopted in 2008, does not constitute a challenge to deregulation in Germany. Formally prescribing equal treatment of temporary agency workers and client firms' regular employees, the directive opened up exemptions based on collective agreements.

The deregulation in 2003 laid the foundation for the remarkable development of TAW in Germany in the subsequent years. The rapid expansion was not only a result of the sector's penetration of new client firms and new industries; a growing number of large, world-market oriented corporations, the BMW-plant in Leipzig being the most prominent example, used the deregulation to alter their deployment of this non-standard form of employment (Dudenhöffer/Büttner 2006; Promberger et al. 2006). The assignments of temporary agency workers in these client firms differ both in quantity and in quality from traditional assignments. First, temporary agency workers' share of the client firm's workforce is comparatively high; thirty percent of workers in the BMW-plant are far from an exception. Second, and even more important, temporary agency workers constitute a quasi-permanent component of the client firm's workforce. They work side by side with the regular workers employed by the client firm, and both groups mainly perform the same tasks (similar: Ackroyd/Procter 1998; Kalleberg 2003). Thus, in contrast to the classical picture of the "flexible firm" (Atkinson 1984), contingent workers do not form a peripheral workforce in its narrow definition. Both groups of workers are highly interwoven in the labor process, despite the remaining status differences.

Underlying this new form of assignment is a functional change of TAW closely associated with the shift to financial market capitalism. This implies a move, from an instrument used mainly reactively to adjust the workforce to short-term swings in work-load, to an instrument of strategic corporate governance. By employing a certain share of their permanent workforce through agencies, client firms bypass statutory dismissal protection and binding collective agreements in order to establish a "security net" for their short-term profits or rate of return. Thus, the strategic use of TAW is particularly attractive for a management primarily oriented to the firm's or corporation's shareholder value. Permanently maximizing short term profits is one of the basic features of the increasing capital market orientation within corporate governance (Fligstein 2001). However, the link between the strategic use of TAW and financial market capitalism goes beyond the level of corporate governance. The radical deregulation of TAW in 2003 is more or less a direct expression of the general shift in capitalism from post-war Fordist capitalism

to financial market capitalism. While the post-war economic success of the Western countries rested to a certain degree on the decommodification of labour, the new economic regime increases market pressures and is thus based on recommodification (Harvey 2006; Dörre 2009).

While the strategic use of TAW and its close link to capital-market oriented forms of corporate governance has been described by business observers and scientists (Arrowsmith 2008: 7; CIETT 2010: 60; Dudenhöffner/Büttner 2006; Seifert/Brehmer 2008), neither the enforcement of the changed function of TAW within highly decentralized client firm organizations, nor its implications for work and labor relations have yet been analyzed in detail (similar: Kalleberg/Marsden 2005: 391). This paper attempts to fill this gap. Using evidence from a research project conducted at the University of Jena, Germany, the article explores the consequences of client firm's strategic use of TAW on work and labour relations. Central management's interest in stable profits as independent from market swings as possible might be taken for granted, but the implications for local management and supervisors responsible for production output are not all self-evident. A further concern is the impact of the quasi-permanent use of TAW on client firms' regular employees and labour relations. As an employment relation, temporary agency work is associated with a high risk of precariousness (Castel 2000; Brinkmann et al. 2006; Dörre et al. 2004). Temporary agency workers occupy an in-between position as they reside inside of the client firm and the external labour market. Taken together, the hope to return to regular employment and constant threats of being send back to the agency, have a disciplining effect on the temporary agency workers' work behavior. Due to rigid regulation, German client firms in the past only used temporary agency workers for short time spans (Noller et al. 2004). But what are the consequences of the long-term, quasi-permanent assignment of precarious workers in the core of client firms?

Following the introduction, the paper starts with a brief description of the regulatory framework of the TAW-sector in Germany, with a focus on its deregulation in the 2000s (2). In order to facilitate a systematic analysis of the enforcement of the strategic use of TAW, an ideal-type typology of client firms' deployment is presented. The strategic use of TAW is distinguished

from two classical forms of client firm's deployment of TAW, namely the ad-hoc assignment and the flexibility buffer (3). Next is a brief presentation of the research project whose results are discussed in this paper (4). Using two contrasting case studies the consequences for work and labor relations are outlined. The first case, Extruco represents the use of TAW as a flexibility buffer to cope with a short-term peak in workload (5), while the second firm, TransCo, uses TAW strategically (6). The paper will conclude with a summary and a brief outlook into the next economic cycle (7).

2. The regulatory framework – deregulating temporary agency work

Before turning to client firms' deployment of TAW, a brief discussion of the development of TAW's regulatory framework is useful. In the direct post-war period, TAW was banned in Germany. Hiring out labour to obtain profits was considered incompatible with the de-commodification of labor ingrained in the rising Fordist welfare state. Not until 1972 was TAW legalized. However, legalization was not tantamount to liberalization. Based on a broad political consensus, the standard employment relationship (SER) became the point of reference for the regulation of TAW in Germany. The aim of the Labour Placement Act was to serve German firms growing demands for flexible labour without allowing for renting out workers for the generation of profits (Bode et al. 1994; Aust/Holst 2006). First, differing from the UK and the US situation, German agencies were forced to respect full employer obligations, such as statutory dismissal protection, safety provisions at work and workers' co-determination rights. Furthermore, the use of temporary contracts by agencies was restricted. Second, client firms' use of temporary agency workers was constrained by the introduction of a maximum period of assignment. In sum, the regulation of TAW in Germany reflected the decommodification of labour characteristic for the Continental and Northern European welfare states under conditions of Fordist capitalism (Esping-Andersen 1990).

In 2003, however, the traditional path of moving TAW as close as possible to the standard employment relationship by way of a rigid regulation was abandoned. In the context of the far-ranging deregulation of the German labour market based on the recommendations of an independent expert

commission led by Peter Hartz, a former manager of Volkswagen, the TAW-sector was almost completely liberalized. Both the restrictions on the use of temporary contracts by agencies and the limitations on the period of assignment in client firms were abolished (Weinkopf/Vanselow 2008). The high share of short-term contracts, less than fifty percent of all employment contracts in the TAW-sector lasted more than three months (Bundesagentur 2008: 12), indicates that agencies intensively use the new opportunities to externalize market risks. Equally manifest are the consequences of the abolishment of the maximum period of assignment. Client firms can now assign jobs permanently to temporary agency workers. Thus, the reform opened the way for importing staffing strategies to Germany formerly only common in countries characterized by a low level of statutory dismissal protection, such as the UK or the US (Carnoy et al. 1997; Purcell et al. 2004; for a similar case in France: Beaud/Pialoux 2004).

Despite its encompassing deregulation, one regulatory peculiarity still distinguishes the German TAW-sector from its Anglo-Saxon counterparts, namely the equal treatment paragraph of the Labour Placement Act. The Act contains an equal treatment paragraph which client firms, however, can bypass by means of a collective agreement. This paragraph presented an enormous bargaining incentive for employers as it allowed collective agreements, both on sector and on firm level, to be used to undermine the equal treatment regulation. Following the reform, employers encouraged inter-union competition by signing a collective agreement for the TAW-sector with an association of the so called “Christian” unions, a small employer-friendly organization. Since client firms could resort to this agreement to bypass their sector agreements, the large DGB unions including the IG Metall were forced to negotiate agreements with similar pay levels. Furthermore, inter-union competition prevented pay levels in the TAW sector from increasing significantly in the subsequent years. Today, hardly any German temporary agency worker is not covered by an agreement (Kvasnicka/Werwatz 2002). For this reason, the deregulated Labour Placement Act does not violate the equal treatment article of the European directive on TAW adopted in 2008 (EU 2008). While the directive’s provision that “the basic working and employment conditions “ of temporary agency workers should not differ from those

of the client firm's regular workers caused some minor reforms in the UK, its exemption rules cover regulation in most member states including Germany (Weinkopf/Vanselow 2009). Furthermore, German regulation can be considered as an implicit "role model" for European regulation, since exemptions to equal treatment are allowed, either by means of a collective agreement for the TWA-sector or social partner consultation at national level (EU 2008). Thus both, German and European regulation, formally prescribe equal treatment but contain several loopholes client firms can use to discriminate against temporary agency workers.

The fact that the reform in 2003 represented a radical path shift from the traditionally rigid regulation protecting the SER to a liberal model resembling regulation in the Anglo-Saxon countries raises the question of political reason. Why did the red-green government deregulate the TAW-sector in such an encompassing way? Besides conceding to ever-stronger lobbying activities by business representatives the reform was fuelled by two, at least partially, contradictory goals. The government aimed both at improving the general performance of the German labour market and at increasing the competitiveness of German firms. Both goals are expressed in the recommendations of the above mentioned expert commission formulating the blueprint for the reform in 2003 (Kommission 2002: 41). In the field of labour market policy, TAW in its deregulated version should help to reintegrate groups into the labour market particularly affected by high unemployment such as young, long-term and low-skilled unemployed. In the eyes of the commission, experience as a "temp" would increase the employability of the unemployed and thus constitute a bridge into regular employment. In the field of economic policy, TAW in its deregulated version should "neutralize" the statutory dismissal protection and thereby increase the competitiveness of German firms on international markets. Even though empirical evidence indicates that "temping" does not increase one's labour market chances, as we will see, both objectives still shape the regulatory framework of the German TAW-sector.

The quantitative development of the German TAW-sector following the reform was quite remarkable. Although overall employment was still declining, the number of temporary agency workers started to increase immediately

after the reform, from 320.000 in 2003 to almost half a million in 2005 (Weinkopf/Vanselow 2008: 5). The development in the following boom years was equally impressive. In 2006, the first year of growing employment figures, more than 50 percent of the newly established jobs in Germany occurred in the TAW-sector. Many firms were reluctant to expand their workforces and thus used TAW to build up flexible workforces. Although the share of overall employment declined in 2007 and 2008, temporary work agencies remained a locus of job growth. No other industry experienced a similar job growth. Until mid-2008 the number of temporary agency workers raised to 800.000 (Bundesagentur 2010: 15). However, in almost the same manner as the sector benefited from the boom, it was hit by the current economic crisis. Within a few months, employment numbers fell by 300.000. Client firms, particularly from the manufacturing sector, used state subsidies for short-time work to protect their permanent workers while laying off large numbers of temporary agency workers.

3. Temporary agency work in client firms – a typology

This section focuses on the use of TAW by client firms. For them, TAW is an instrument of external flexibilization. Temporary agency workers can be brought into the firm as well as returned to their agency with hardly any friction. However, client firms pursue very different goals by reverting to TAW, and deploy temporary agency workers in very different ways (for the German case: Promberger 2006; for the UK: Mckay/Markova 2008; for the US: Kalleberg/Marsden 2005; Davis-Blake/Uzzi 1993). The variety of client firms' deployment of TAW is well described in the scientific discourse; yet a systematic analysis of the different motives of client firms and their impact on work and labour relations is still lacking. To fill this void, a typology of client firms' deployment of TAW is presented. The typology builds on the extensive literature and our own research (Carnoy et al. 1997; Kalleberg 2001; Purcell/Purcell 1998; Forde 2001; Theodore/Peck 2002). Three types of client firm's utilization of TAW are distinguished: ad-hoc-assignment, flexibility buffer, and strategic use. Each of the three types is associated with a distinct function of TAW as an instrument of flexibilization as well as an

equally distinct form of assignment of temporary agency workers in the client firm's labour process. While both the ad-hoc-assignment and the flexibility buffer represent traditional ways to use TAW, the strategic use is new and a direct impact of the reform of 2003. As the discussion of the development of regulation of TAW demonstrated, open-end assignments characteristic for this type of deployment were legally prevented prior to the reform of the Labour Placement Act in 2003.

Table 1: A typology of client firms' deployment of TAW

	Type 1 Ad-hoc Assignment	Type 2 Flexibility buffer	Type 3 Strategic Use of TAW
<i>Function of TAW as an instrument of flexibilization</i>			
Flexibility	substitution of absent staff	increase of workload	"security net" for profits
Cost reduction	search and hiring costs (wages)	search and hiring costs (wages)	lay off costs (wages)
<i>Form of work assignment in client firm</i>			
Intensity	minimal	medium to high (>5%)	medium to high(>5%)
Scope	punctual	limited to fringes	encompassing
Duration	temporary	temporary	permanent
Relationship regular staff – agency workers in labor process	punctual interactions	segmentation	Interwoven

Two dimensions are distinguished: the *function* of TAW as an instrument of flexibilization, and the *form* of the assignment of temporary agency workers in the client firms. The function of TAW represents the key difference between the three types, and refers to the objectives of a client firm's utilization of TAW as an instrument of flexibilization. The form of assignment describes the positioning and use of temporary agency workers in the client firm's labour process. The *intensity of the assignment* refers to the temporary agency workers' share of the client firm's workforce, the *scope of the assignment* relates to the pervasiveness of TAW in the client firm's divisions, and the *duration of assignment* covers the temporal dimension. The construc-

tion of the typology follows the principle “form follows function”. TAW’s function in the client firm structures the form of the assignment of temporary agency workers in the labour process. The impact for work and labour relations are in turn structured by the form of assignment, although room for political action moderating the impact and creating solidarity within the workforce exists.

The first utilization type is the *ad-hoc assignment*. The impetus for the assignment of temporary agency workers stems from the sphere of production. Client firms temporarily assign jobs to temporary agency workers as a reaction to the absence of regular staff due to sick leave or holidays (see Theodore/Peck 2002: 467). The flexibility of TAW is thus used by the client firm to maintain stability of its processes. The control problem of the ad-hoc assignment is “matching” (Walter 2005; see: Miegel et al. 2007: 15). To facilitate stability, temporary agency workers have to assume the positions of the absent regular workers and, thus, have to match the qualification demands of the client firm. The form of assignment is characterized by a low intensity, a limited scope and a short duration. Only a few temporary agency workers are present at a time since they only work in those departments where regular staff is absent. Temporally, their assignment is confined to the absence of the regular workers. Due to the low intensity, the limited scope and the short duration, there are only punctual interactions between the client firm’s regular workers and the temporary agency workers. Evidence suggests that the impact of the deployment of TAW in form of an ad-hoc assignment has only a limited impact on work and labour relations. Therefore, the case studies in this article concentrate on the following two types, namely the flexibility buffer and the strategic use.

The second type is referred to as *flexibility buffer*. As in the first type, the client firm’s utilization of TAW constitutes a response to production problems. Temporary agency workers are used to cope with a sudden and unexpected increase in production volume (see Kalleberg 2003: 157; Promberger et al. 2006: 92ff.). Again, the decision to deploy TAW is made on the shop floor. Supervisors use temporary agency workers to cope with the short-term work-load as the regular workforce is not expanded due to the distinct temporary character of the increase of the work load. Closely linked to the function of TAW is the control problem to be solved by client firms and agencies:

“availability”. In general, client firms need a high number of temporary agency workers on very short notice. In order to have a sufficient supply of labour at all times, agencies permanently recruit new potential workers but do not hire them before a concrete order is present (Kvasnicka 2003). The form of assignment typical for the flexibility buffer is characterized by a medium-to-high intensity, a low-to-medium scope and a limited duration. The number of temporary agency workers is generally higher than in the case of an ad-hoc assignment, however, the scope remains limited. Since the assignment is directly linked to concrete orders causing the increase in workload, a temporal end is clearly defined. In the labour process, the client firm’s workforce is segmented. In order to increase output as quickly as possible, supervisors assign peripheral positions to the temporary agency workers, thereby minimizing training costs.

The newest type is the *strategic use* of TAW (see Forde 2001; Theodore/Peck 2002: 471; Promberger et al. 2006: 109ff.). Differing from the classical modes, the impetus for the utilization of TAW does not stem from the sphere of production but from strategic corporate governance, hence the term strategic use. This is a characteristic of the strategic use which distinguishes it from the two classical types: the decision to deploy TAW strategically is made by management, not on the shop floor. In conjunction with other instruments of external flexibilization, TAW is used to bypass statutory dismissal protection and binding collective agreements. The “not-so-temporarily” temporary agency workers constitute a quasi-permanent component of the client firm’s workforce (Kalleberg 2001: 488), thereby forming a reservoir of numerical external flexibility which can be used by to downsize the workforce in times of unexpected economic downturn, hence the notion of a “security net” for the short term profits or the rate of return. The control problem of the strategic use of TAW consists of the “stabilization” of a fragile relationship, since agencies have to guarantee that the same temporary agency workers are in place every day. Fluctuation among them would endanger the stability of the client firms’ processes. The form of the assignment in the client firms clearly differs from the other two classical types. Intensity is in general higher though there are cases where labour representatives succeeded in limiting the share of temporary agency workers. The main

difference, however, lies in the scope and the duration of the assignment. Confronted with an open-end assignment of temporary agency workers, supervisors do not assign them work that is different from work performed by the client firm's regular employees. In all our case studies, both groups of workers perform basically the same work; they work side-by-side and they participate in the same training schemes. Thus, in the labour process temporary agency workers and the regular employees of the client firms are closely interwoven, despite the persistent differences in status.

Before turning to our case studies, two things need to be clarified. First, the three ideal-types are not mutually exclusive. Particularly the ad-hoc assignment is frequently combined with the other utilization types. In addition, in almost all client firms strategically deploying TAW we found single or groups of temporary agency workers whose assignment had the function of a flexibility buffer. The BMW-plant in Leipzig, one of the most modern car factories in Europe, can serve as an example. On the peak of the last boom, two groups of temporary agency workers were present, namely quasi-permanent ones securing "basic flexibility" and short-term ones producing "peak flexibility". However, evidence suggests that in each client firm there appears to be a dominant utilization mode shaping the positions occupied by temporary agency workers. The second point of clarification concerns the principle "form follows function". Our case studies reveal that shop floor-supervisors play a key role in translating the function of TAW into the form of assignment. Of the client firms, not one of the management teams exercised any influence on job assignments. Supervisors responsible for production output determine which positions workers took, regardless of whether they were the client firm's regular employees or workers employed by work agencies. Let us now turn to the two case studies illustrating the consequences of client firm's utilization of TAW.

4. The project – the strategic use of temporary agency work in the German metalworking sector

The paper builds on sociological research project the authors conducted in the German metalworking sector in 2007 and 2008 (Holst et al. 2009). The

sample consists of 12 company case studies whereof 6 were analyzed in detail by interviewing regular workers (RW), temporary agency workers (TAW), supervisors (SV), managers and works councils (WC). In addition, union and agency representatives were interviewed as well, leading to a total number of interviews of 83. The interviews were coded according to a code system developed on the basis of the research questions. Case selection was based on the topic of the project: the functional change of TAW. Interviewing managers and works councils, we targeted companies utilizing TAW strategically. In order to facilitate meaningful comparison, one firm using TAW as a flexibility buffer was studied intensively as a contrasting case. In general, access to firms proved to be difficult. In many cases, management and works councils refused to let their workforce be interviewed. Therefore, the companies studied in this project are presumably far from the worst examples in the field. Table 1 displays the six intensive case studies including important information such as sector of origin, workforce size, the share of temporary agency workers of total workforce, utilization type as well as number and composition of interviews. The project was financed by the Otto-Brenner-Stiftung.

Table 2: The intensive case studies

Case	Sector	Workforce	Share of TAWs	Utilization Type	Interviews
ExtruCo	Mechanical engineering	850	9%	Flexibility Buffer	1 HR, 2 WC, 2 SV, 4 TAW, 4 RW
	Electrical engineering	220	15%	Strategic Use	1 HR, 1 WC, 1 SV, 4 TAW, 4 RW
TransCo	Mechanical engineering	660	18%	Strategic Use	1 HR, 1 WC, 2 SV, 4 TAW, 4 RW
	Electrical interconnections	950	21%	Strategic Use	1 PA, 1 BR, 3 SV, 4 LA, 4 RW
	Car maker	30.000	5%	Strategic Use	1 BR, 2 SV, 4 LA, 4 RW
	Automotive supplier	230	30%	Strategic Use	1 PA, 1 BR, 2 SV, 4 LA, 4 RW

In the subsequent sections, the implications of the strategic use of TAW on work and labour relations are analyzed in detail by means of a comparison of two contrasting case studies. Besides the utilization type, the two cases,

ExtruCo and TransCo, display several similarities, among them: sector of origin, product characteristics, firm size, and workforce skill-level. Both firms are machine building companies specialized on customized large machinery, both are medium-sized firms and, in addition, both possess a highly skilled workforce. Controlling for a whole range of factors, these similarities allow for a meaningful comparison of the implications of the differences in utilizing TAW.

5. Temporary agency work as a flexibility buffer – the divided workforce (ExtruCo)

The first case represents the deployment of TAW as a flexibility buffer. ExtruCo is a machine building company specializing in the production of large machinery for the chemical and plastic industry. The plant is the original location of a family-owned business that had a long tradition in machine building. However, for more than a decade the firm belongs to an international corporation owned by shifting investment funds. During this time the workforce has been reduced in two large waves, to a minimum of 650 after the turn of the century. During the boom years 2006 and 2007, ExtruCo's workforce was expanded through the recruitment of more than one hundred new regular employees. In addition, fifty temporary agency workers were hired through various agencies and brought into the firm. However, these workers were laid off in the course of the current crisis. At the end of 2009 only a handful of temporary agency workers were still present in the plant. The majority of the workforce including the former temporary agency workers consisted of skilled workers, most of them trained in the company. The focus on skilled labour reflects the character of the production system. The highly customized machines are produced and assembled in small semi-autonomous work groups. Attempts to reintroduce a belt system proved to be incompatible with both the complexity of the products and shifting customer demands. Therefore, production is dependent not only on formal qualifications, but on workers' experience and tacit knowledge as well.

***Temporary agency work as a flexibility buffer –
flexibilization as a response to shop floor problems***

ExtruCo used TAW to cope with the shifting order volume during the boom years. Due to the firm's dependence on large and long-term construction projects, the future development of the firm's key markets was, and still is, more or less predictable. Expecting a sharp decrease of demand after the boom years, the firm switched to recruiting temporary agency workers instead of regular employees. In an interview, an HR-manager made clear that the push for the assignment of temporary agency workers originated from production problems:

“It was obvious that our own capacities were not sufficient for increased workload.” (HR)

The supervisors decided if and when temporary agency workers entered ExtruCo. Due to the frequently shifting workload resulting from the customer-oriented production process the number of temporary agency workers employed varied frequently even during the boom years. In fact, temporary agency workers were constantly recruited and laid off to adjust the firm's monthly workload. Continually fine-tuning the size of the workforce required close cooperation of the HR-department and the agencies. The machine building company co-operated with more than ten agencies at any one time to assure the availability of temporary agency workers both in terms of numbers and quality. Thus, the management of the external relationship with the agencies became an important focus of ExtruCo's local HR-department.

The form of work assignment was characterized by a deep segmentation of the workforce in the labour process. In all the case studies, we found that management did not exercise any considerable influence on the division of work within the departments. The decisions underlying the placement of workers, whether they were hired directly or through temporary work agencies, were made exclusively by the supervisors responsible for production. They decided which worker would be put onto which position. At ExtruCo, instead of integrating temporary agency workers in the normal task rotations, supervisors in most departments decided to create new positions for the temporal agency workers. While the regular staff concentrated on core oper-

ating activities requiring experience as well as tacit knowledge, the temporary agency workers were assigned standardized tasks with minimum training requirements. The rationale guiding this decision was elaborated by a member of the firm's works council:

“There is this uncertainty: Will he stay or not? You invest in his training, integrate him into the group, he gets a good position – and then he is gone. This is a dilemma. I keep telling my supervisor: ‘You got to know that the temp might be gone tomorrow.’ Then we have a big problem.” (WC)

By segmenting the workforce along the core-periphery axis, supervisors attempted to achieve two goals, first, the output of the department as a whole was increased as quickly as possible. The temporary agency workers assisted the regular workers, who then could concentrate on tasks of strategic importance. Second, the prospective functionality of the unit was guaranteed, as proven by the smooth cutback of temporary agency workers in the second half of 2009. When the temporary agency workers were laid off, the regular workers returned to their traditional positions. In fact, only in areas where the qualification requirements were low, such as logistics and internal services, both groups performed the same tasks.

The divided workforce – distinction and exclusion

The distinct temporal nature of TAW as a flexibility buffer resulted in a deep segmentation of the workforce. Only in a few areas located at fringes of the firm organization did temporary agency workers and the firm's regular employees perform the same tasks. But what were the consequences for the workers? For the temporary agency workers in Extruco there was a high risk of precariousness in terms of wages, social integration, work content, participation and societal recognition. Wages were low, the pay level of the TAW-sector's collective agreement amounted to hardly more than fifty percent of the sector agreement covering Extruco's regular workers. The limited time span of the assignment impaired the temporary agency workers' social integration into the client firm's workforce as well their participation in qualification schemes. Even the most skilled temporary agency workers performed only standardized tasks, neither meeting their own expectations concerning

the quality of work, nor improving their labour market chances. In addition, “being a temp” continued to be associated with a low social status. However, although the temporary agency workers were aware of the fact that “the client firm can fire us any time”, they attempted to constantly impress their supervisors:

“I try to do the job the best I can. I have tried from the first day. My boss tells me: ‘This is your chance. You have to demonstrate your qualities again and again.’” (TAW)

Evidence suggests that the temporary agency workers’ work behaviour in the firm was to a high degree determined by their external position on the labour market. Experience told them, that the direct path into regular employment was blocked. Against the background of a series of unsuccessful application activities, employment as a temp appeared to them as the sole chance remaining to re-enter the labour market. This assessment reflects the closure in various segments of the labour market which itself is the result of the recent success of the TAW-sector in Germany, particularly the manufacturing sector. In most old industrial regions, very few jobs were available outside of the TAW-world.

On first glance, the presence of temporary agency workers had very little impact on Extruco’s regular employees. Due to the segmentation in the labour process there was no formal competition for positions or promotion chances. Consequently, Extruco’s regular employees perceived the assignment of temporary agency workers mainly as enhancing their own job security. They were convinced that the firm would, as it did indeed later on during the crisis, send the temporary agency workers back to the agency before laying off regular employees. A key factor supporting this perception was Extruco’s handling of short-term swings in the workload during the boom years of 2006 and 2007. Although the working time accounts of the core workforce were filled due to frequent overtime work, temporary agency workers were constantly laid off and re-hired. Due to the positions the core workforce occupies in the labor process, they were hardly replaceable. However, even though the temporary agency workers did not constitute a personal threat to the job chances of the permanent workers their presence still had an impact. For several regular employees of Extruco, the temporary agency

workers working in close proximity physically embodied their own shrinking labor market chances. Having the mass redundancies of the early 2000s still in mind, a worker with more than 20 years of seniority said:

“If they want to close the plant, they will close it. But it would be almost hopeless to find a regular employment contract somewhere else.” (RW)

Set within the background of the deteriorating job chances in the external labor market, the permanent position at Extruco was perceived as a privilege to be defended at all cost. Therefore, the same closure of the labour market that hampered the re-entry of temporary agency workers, conveyed through Extruco's use of temporary agency workers, also had a disciplining effect on the regular workers as well.

The division of Extruco's workforce was also reinforced by the behaviour of the works councils. Statutory interest representation has a long tradition in Extruco with the skill-level and the seniority of the workforce constituting the works council's powerbase. Among the bargaining outcomes reflecting the power of Extruco's works council were: a substantial wage premium to the collective agreement for the metalworking industry, the firm-level freezing of the new performance-related pay system of the sector agreement and the preservation of the firm's craft-based production system. However, due to the temporally limited work assignment and the relatively slow increase of the number of temporary agency workers, works councils did not use their bargaining power to improve the situation of the temporary agency workers. Confronted with a whole range of urgent questions concerning outsourcing and work organization, the discrimination of the temporary agency workers hardly attracted the attention of the works councils. For the temporary agency workers, however, this meant that they were virtually excluded from statutory interest representation. Additionally, due to the high pay level for regular workers, the wage differential within Extruco's workforce was tremendous. Temporary agency workers were paid solely according to the TAW-sector's agreement. In addition, in order to protect the company's knowledge base works councils bolstered the supervisors' decisions to assign just simple tasks to the temporary agency workers, thereby reinforcing the segmentation between both groups.

6. The strategic use of temporary agency work – the interwoven workforce (TransCo)

Specialized in highly customized transformers, TransCo is part of one of Europe's major engineering corporations operating globally and listed at the stock-market. After massive job cuts in the early 2000s, the number of TransCo's regular workers has remained rather stable at a level of 550. Supplementing the core workforce, around 120 temporary agency workers were more or less constantly employed between 2006 and 2008. From early 2009 on, the number of temporary agency workers was step-wise decreased due to falling demand on TransCo's key markets. However, contrary to the first case, the temporary agency workers were not laid off at once. Even at the end of 2009, more than fifty temporary agency workers were still in place. TransCo's workforce is highly dominated by skilled workers as most positions suitable for unskilled labour were outsourced in the recent years. Most of the regular workers received their initial training in the firm, resulting in a high average seniority. There is one further difference to the first case, namely the production system. During the boom, TransCo's production system was reorganized according to neo-taylorist principles. While in the past transformers were assembled in semi-autonomous work groups, production and assembly are now integrated in a continuous-flow-system. Standardized and differentiated tasks result in a tangible reduction of training requirements.

Strategic use of temporary agency work – flexibilization as a “security net” for profitability

The function of TAW is defined in TransCo's international headquarters. Long before the past economic boom, the central management decided to limit the number of employees in the corporation's Western European locations. To do so, a workforce cap was introduced, fixing the headcount at each location. Due to the centrally defined workforce cap, local branches could not independently hire new regular workers. The German and the international headquarters of TransCo both had to approve each new hire. Even during the boom years TransCo's regular workforce was only marginally expanded. The

head of the local HR-department elaborated the rationale underlying the workforce cap:

“Against the background of the global plant landscape, the headquarter attempts to reduce the risk that local decisions have a negative impact on future flexibility. Here, the number of employees plays an important role. In the eyes of the global corporation, the German statutory framework for industrial relations (*Betriebsverfassungsgesetz*) is no benefit. It impairs the flexibility to adjust the workforce.” (HR)

The workforce cap is used by the corporation’s headquarters to control local branches’ staffing practices. Despite the massive increase of orders, the number of TransCo’s regular workers remained rather stable during the last boom. Central management refused to expand the local workforce. TransCo’s local management had to revert to subcontracting, in-house outsourcing, and temporary agency workers to process the increased workload. Suppliers were conferred the production of a whole range of simple parts, and in-house outsourcing extended beyond peripheral units such as logistics and services to quality control and simple production tasks. However, the long-term assignment of about 120 temporary agency workers, amounting to twenty percent of the firm’s workforce, represented the main local response to the central decision to cap the headcount. Most of the temporary agency workers were hardly temporary; at the time of the interviews, the assignment lasted already more than two years and an end was not in sight.

In the labour process, TransCo’s regular workers and the temporary agency workers were closely interwoven. In almost all production and assembly areas, both groups worked side-by-side and performed the same tasks. The encompassing incorporation into TransCo’s standard processes was the result of decisions made by the respective supervisors responsible for production output. Due to the long-term, open-ended utilization of TAW, supervisors tended to assign temporary agency workers and the regular employees similar positions in the labour process. One supervisor explained his situation with the following words:

“In general, I treat all employees the same. I do not make a difference between temps and the permanent guys. I make a difference concerning the

qualification but not in status or in the assignment of position. In fact, I cannot make a difference since I have to guarantee the output.” (SV)

Due to the relatively high number of temporary agency workers and their open-ended assignment, a task segmentation would have impaired workforce flexibility and thus negatively influenced productivity. An enabling factor was TransCo’s production system; the standardization of tasks in the continuous flow system reduced the need of tacit knowledge and experience, thus minimized training requirements. Due to the flexible-taylorist system workers’ substitutability was high despite the high skill level. However, it is important to note that the temporary agency workers were indeed treated equally with the firm’s regular workers in terms of their position in the labour process, but the status differences remained visible. Reflecting the function of TAW as an instrument to bypass German statutory dismissal protection, the positions of the temporary agency workers remained rather fragile. In principle, they could be sent home at any time. The status differences constituted a specific challenge to the supervisors, as they had to guarantee that members of both groups cooperated in the labour process and exhibited the same performance. For this reason, a group of supervisors lobbied for directly hiring at least some of the temporary agency workers, however, central management’s workforce cap could not be bypassed at plant level.

The interwoven workforce – discipline and solidarity

The high number of quasi-permanent temporary agency workers at TransCo led supervisors to assign them similar jobs in the labour process. Only in few areas were both groups systematically assigned different tasks. But what did it mean for the workers that both groups performed the same tasks? Concerning the temporary agency workers, evidence suggests that the equal position in the labour process characterizing the strategic use of TAW slightly reduced the level of precariousness associated with this form of non-standard employment, without, however, eliminating it. In addition to their regular payment by the agency, they received a monthly premium paid by the client firm, considerably reducing the pay differential within the client firm’s workforce. Temporary agency workers, particularly those with extensive experience as a

temp, perceived the quasi-permanent nature of the assignment at TransCo as positive. The long duration and the open-ended employment facilitated a deeper social integration into the client firm's workforce. Furthermore, the fact that most temporary agency workers occupied similar workplaces as the regular workers increased job satisfaction. A long-term temporary agency worker revealed his thoughts when his assignment in the machine building became quasi-permanent:

“Well, the main point is that you remain here. Everything else is secondary. Just that you don't have to change jobs the whole time. Whenever you go to a new job you have to find your way into the place. You have to get acquainted with the colleagues, find the way to the company and so on. I say: 'As long as I am here, my car finds the way. It drives on its own.' It's all very smooth here. It's a very positive environment here. I had other experiences, fights between the colleagues and so on. That was horrible.” (TAW)

The relative positive perception of their assignment at TransCo was in all cases based on a comparison with past experiences as a “temp”. The long-term character of the assignment mediated a few of the negative effects of TAW as an employment relationship. However, when comparing themselves to the regular workers of the client firm almost all temporary agency workers still saw themselves as “second class workers”. They were aware of the fact that the client firm could lay them off at every moment. Reflecting their minor job chances on the external labor market, many interviewees equated a regular position in the client firm with a “jackpot in the lottery” (TAW). The desire to receive a regular job in the client firm constituted a powerful motivation for the temporary agency workers. However, due to the workforce cap their chances remained rather low. Temporary agency workers could only get into permanent employment at TransCo as replacement for regular employees who had left the firm.

Concerning the impact on the regular workers, one thing was particularly striking, namely the high substitutability of TransCo's regular workers, reflecting the lack of a task segmentation. Particularly in the assembly areas, each regular worker was surrounded by temporary agency workers who had the same qualification and performed the same tasks. Notwithstanding that

the high level of dismissal protection objectively prevented any direct substitution of regular employees; the potential feasibility of substitution constituted a powerful disciplining mechanism:

“The big question is: What happens, when the boom is over. I am really skeptical. It might happen that they tell me: ‘You can leave ‘cause the other one [a temp] is cheaper.’ What can I do? Tough luck. I don’t know how much the firm still values my experience; that I have been here from early on. I don’t know if that still counts today – or if it’s unimportant.” (RW)

Uncertainty about the future was the fundament of the disciplinary effect. First, the plant’s future prospects were insecure reflecting the competition between the corporation’s different locations in Western Europe. Second, while in the past qualification schemes and promotion chances were assigned according to status, current workers increasingly had to compete for better jobs. However, supervisors’ decisions in this competition remained in-transparent to many workers. In addition, some workers reported that individual supervisors exploited the uncertainty by threatening regular workers that they would be substituted by high-performing temporary agency workers.

Labor relations at TransCo reflected the interwovenness of the workforce. As seen in all of the cases of the strategic use of TAW, works councils incorporated the interests of the temporary agency workers in some way in the firm’s statutory interest representation. The impact of the strategic use of TAW on work and labour relations should not be reduced solely to a disciplining effect. The fact that both groups, the temporary agency workers and TransCo’s regular employees, occupied similar positions in the labour process opened up new potentials for co-operation and solidarity as well. In the words of an employee with twenty years experience: “We do the same and we have the same background” (RW). The majority of TransCo’s regular workers supported the works council in using its bargaining power to improve the situation of the temporary agency workers. Among the results of works councils activities were: a monthly wage premium added to the salary paid by the agencies reducing the wage gap considerably, the deeper social integration into TransCo’s workforce and the active participation of temporary agency workers in the process of interest formulation. However, it is important to note that the centrally defined workforce cap was not negotiable

for the works council. Thus, the material situation of the temporary agency workers was successfully improved – but the status as a temp was beyond the scope of firm-level bargaining. In addition, TransCo’s works council’s bargaining power was tangibly undermined by the quasi-permanent status division within the workforce. In the words of the head of the works council:

“The firm undermines the bargaining power of us [the works council] and the union. The rate of unionization is rather high in this plant. Management uses it [the presence of the temps] to put pressure on the workforce in order to undermine our ability to strike.” (WC)

One of the most important bargaining successes of TransCo’s works council was the codification of a quota limiting the number of temporary agency workers in the plant to one hundred twenty.

7. Conclusions – “stabilizing the instable”

The paper started off with the observation that German client firms are increasingly utilizing TAW as an instrument of strategic corporate governance. Comparing two contrasting cases from a pilot study conducted in the German metalworking industry, this paper attempted to answer two closely interrelated questions: First, how is the new function of TAW enforced in highly decentralized firm organizations? And second, what is the impact on the client firm’s workforce, including both its regular employees and the temporary agency workers hired through a temporary work agency? Although it has been shown that the assignment of temporary agency workers result in a tangible status division within the workforce, the consequences of a quasi-permanent assignment of precarious workers in the heart of client firms are not yet examined fully.

First, evidence collected confirms the hypothesis that management’s main objective for using TAW *strategically* is to de-couple property from market risks. As works councils from all client firms representing the strategic use of TAW report, management is willing to bargain for almost every facet concerning the situation of the temporary agency workers, with the notable exception of their status as employees of an external agency. In contrast, supervisors in firms utilizing TAW as a *flexibility buffer* exhibit some bar-

gaining power over the employment status of their workers. Notwithstanding the reduction of labor costs by eluding binding collective agreements, central management's main objective is to establish a "security net" for the company's short-term profits or rate of return by bypassing German statutory dismissal protection. Not surprisingly, the strategic use of TAW is particularly attractive for management oriented towards short-term profits or rates of return, displaying its affinity to a corporate governance unilaterally prioritizing the interests of the shareholders. The central management in all case studies uses effective leverage to enforce the new function of TAW, namely a workforce cap broken down on locations and individual departments. The number of regular workers is either limited directly by means of a numerical headcount (as in the case of TransCo) or indirectly through centrally defined budget restrictions. Through fine-tuning the workforce cap, central management is able to indirectly exercise influence over the staffing decisions on the local level.

As exemplified by TransCo, the workforce cap tangibly alleviates the room for manoeuvre of the supervisors responsible for production output. The number of regular workers is centrally defined; if they need additional labour to meet the production goals they have to resort to external labour. The strategic use of TAW thus results in a quasi-permanent status division within the client firm's workforce. On the one hand, there is the group of regular workers directly employed; on the other hand, there are the temporary agency workers who are integrated in the client firm's labour process though they are formally employed by an external company. Since both groups have to work closely together and exhibit the same performance-level, the status division of the workforce constitutes a challenge for the responsible supervisors. They have to prevent the status differences from having a negative impact on output productivity. To achieve this goal, supervisors in all client firms cooperate closely with representatives from the agencies in order to forestall the unexpected exit of temporary agency workers. Particularly in periods of intensive recruitment, fluctuation among temporary agency workers was high, causing production problems in all client firms. Some supervisors therefore lobbied for a deeper social integration of the temporary agency workers to avoid conflicts between both groups of workers.

Second, what are the consequences for the workers? Independently from the way TAW is exploited in a client firm, the insecure position as a temporary agency worker is associated with increased vulnerability. Temporary agency workers are confronted with relatively high job insecurity. Having experienced unemployment, most of the workers understand the work in the client firm as their only chance to re-enter regular employment. Their weak position on the labour market explains the hopes temporary agency workers associate with their job, although most of them sense that their chances of success are rather low. However, in our case studies, whether they used TAW strategically or not, the disciplining effect extended beyond the group of the temporary agency workers. The study thus confirms earlier analysis on the consequences of precarious work. Although regular workers formal job security remains unaltered, they are subjectively put under pressure. The interplay of intensified global competition, the deregulation of the welfare state, and new production concepts results in an increased *collective risk of social deprivation* even for the skilled employees (Beaud/Pialaoux 2004: 259; Vogel 2009: 12; Castel 2000: 258). Looking at the temporary agency workers, the regularly employed workers of the client firm sense that, in case they would lose their job, their chances of re-entry into regular employment would be equally low. In a sense, the temporary agency workers physically embody the uncertainty surrounding their own future on the labour market.

However, the comparison of Extruco and Transco demonstrates that the strategic use of TAW has effects on the workforce that go beyond those described in previous studies on precarious work. By “stabilizing the unstable”, i.e. the quasi-permanently integration of temporary agency workers, the client firm’s regular workforce is moved even closer to the market. At Transco and the other cases representing the strategic use of TAW, the regular employees and the temporary agency workers possess the same qualifications and perform the same tasks. Thus, the *individual risk of substitution* increases significantly. In contrast, the strict task segmentation minimized regular employee’s substitutability at Extruco, which represents TAW as a flexibility buffer. The changed function of TAW underlying its strategic use indirectly lays the foundation for an increased intra-workforce competition leading to work intensification. Though the disciplining effect is not the

primary reason for utilizing temporary agency workers quasi-permanently, management in most client firms is aware of this “beneficial side-effect”. In the words of the HR-director of TransCo:

“Temporary agency workers have mostly experienced several workplaces and thus have a positively impact on the situation in our plant. We do have very many employees – I almost said: who were born here – who were trained here and who will go into retirement here. They have never experienced another workplace but constantly complain about the working conditions, working time and so on. It is in these cases that the experiences of the temps are helpful: ‘Gosh, be happy about the conditions in this plant.’ [...] Furthermore, the temps demonstrated that some tasks can be performed faster which, of course, is connected to the hope for a regular job.’ (HR)

Thus, as a secondary effect, the strategic use of TAW lays the foundation for the regulation and control of work by competition.

Not surprisingly, the way client firms deploy TAW has a distinct implication for labour relations as well. While the temporary agency workers constitute some sort of a temporary peripheral workforce in the case of the flexibility buffer, the strategic use of TAW is characterized by a tight interwovenness of temporary agency workers and the client firm’s regular employees. For long periods of time, both groups perform basically the same tasks. Thus, as exemplified by the two case studies, client firms’ use of TAW as a flexibility buffer and its strategic use constitute very different challenges to works councils and unions. Whereas the interests of temporary agency workers who form a temporary peripheral workforce might be downgraded in negotiation processes, those working permanently in the core areas of the client firm’s organization constitute an important factor for the labor relations within the client firm. However, the relationship between the mode of TAW’s utilization and the politics of works councils and unions is far from deterministic. Evidence shows that there is room for political mobilization and solidarity building among workers. Due to the dual system of interest representation in Germany, unions cannot directly control works council behaviour. However, unions such as IG Metall aim at “activating” works councils to incorporate the interests of temporary agency workers into their bargaining strategies. Several activities display the metal union’s growing orientation towards

TAW, including a national campaign promoting equal treatment on the firm-level and several projects aiming at consulting works councils and organizing temporary agency workers (Dörre et al. 2009). However, due to the deregulated regulatory framework success is dependent on the bargaining context within the client firm and works council's willingness to take up the temporary agency workers' grievances.

Currently only a few of the metalworking industry firms use TAW strategically. However, there are several powerful arguments for an accelerated dissemination of these concepts during and after the current crisis, even beyond the group of world-market oriented large corporations. First, the growing volatility of many product markets will potentially increase the popularity of a decoupling of property and market risks among managers of all kinds of companies. In addition, work intensification as a side-effect of the strategic use of TAW might become a driver for its further dissemination. Second, the trend to neo-taylorist production systems in manufacturing is lowering the barriers for an encompassing and quasi-permanent assignment of temporary agency workers. Training requirements are reduced because of workers' experience and tacit knowledge are less important than in craft-based production systems. Third, success of the TAW-sector is a self-reinforcing process. The more client firms in a given sector resort intensively to TAW, the chances of unemployed workers to return directly into regular employment are lower, resulting in a growing reservoir of potential labor for temporary work agencies. Together, these factors make a further dissemination likely, beyond the group of large world-market corporations as well as internationally.

But does this mean that both the further dissemination of TAW's strategic use and its negative impact on the quality of work are inevitable? Not necessarily, the German case studies reveal several starting-points for reformative actions by labour representatives. First, although the workforce cap has proven to be a powerful instrument to enforce the new function of TAW, works councils and unions have had some success in limiting its effect by negotiating a maximum quota for temporary agency workers. In fact, a quota is currently the only effective instrument alleviating the leverage of a workforce cap. Second, the fact that temporary agency workers and the regular

employees of the client firm occupy similar positions in the labour process has proven to be a double-edged sword. Besides the disciplining effects it entails, there is potential for an enhanced solidarity overcoming the workforce division at least partially. If unions as well as works councils incorporate the interests of the temporary agency workers into their strategies, the consequences of the strategic use of TAW can at least be moderated. In all the case studies, it was the supervisor's behavior that emerged as an important factor for shaping the relationships between both groups of workers. They regulate and control the work of both the client firms' regular employees and the temporary agency workers. However, while solidarity might mediate the effects of the deprivation associated with the status of being a "temp" in Germany, real equal treatment presupposes a reform of the legal framework of the TAW-sector exceeding tangibly the scope of the European directive on TAW as well as reform of the social security systems still centered around the standard employment relationship.

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