

Stolen Chances: Low-Wage Work and Wage Theft in Iowa

Colin Gordon

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The Iowa Policy Project

20 E. Market Street, Iowa City, Iowa 52245

(319) 338-0773

www.iowaPolicyProject.org

Authors and Acknowledgments

Colin Gordon, Ph.D. (History), Professor, Department of History, University of Iowa, is a Senior Research Consultant for the Iowa Policy Project. He has authored or co-authored several IPP reports, including *Wage Theft in Iowa* (2012) and most reports in the *State of Working Iowa* series, to advance effective and accountable policies that help working families. He is the author of *New Deals: Business, Labor, and Politics in America, 1920-1935*; *Dead on Arrival: The Politics of Health Care in Twentieth-Century America*; and *Mapping Decline: St. Louis and the Fate of the American City*.

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Introduction

Our 2012 report *Wage Theft in Iowa* characterized wage theft as an “invisible epidemic” affecting thousands of low-wage workers in Iowa. Since 2012, numerous media reports, an uptick in worker organizing to recover unpaid wages, and heightened attention from some state and local elected officials have made Iowa’s wage theft problem far more visible. Yet the state’s landscape of lax enforcement remains fundamentally unaltered, and new evidence presented in this report underscores the persistence and scope of the problem.

**Wage theft in Iowa:
Less invisible, but
still an epidemic**

Our 2012 report used national survey work done by the National Employment Law Project to calculate a baseline for the incidence of wage theft among low-wage workers, and then used Iowa demographic statistics to develop estimates of lost wages and lost tax revenues for our state. Our estimates — \$600 million in stolen wages and another \$120 million in unpaid sales, income and payroll taxes annually — gave dimension and scale to a problem that, to that point, we understood mostly through a few egregious cases (such as that of Henry’s Turkey Service in Atalissa), anecdotal evidence of wage theft reported by many workers, and close studies of a few industries (such as construction).

This report updates and expands on that work by drawing on two more years of claims and enforcement data from state and national agencies, and new results of a 2014 survey of 300 low-wage workers in Eastern Iowa. These local survey responses provide some of the first direct glimpses we have into the scope and nature of Iowa workers’ experiences with wage theft.¹

New survey results confirm that wage theft in Iowa is shockingly commonplace. Even within a relatively small sample of 300 Iowa workers:

- 25 percent of respondents had experienced wage theft within the past year.
- 62 respondents (20 percent of those surveyed) reported not having received overtime pay, amounting to nearly \$40,000 in unpaid wages.
- 59 (nearly 20 percent of those surveyed) reported late or unpaid wages, totaling just under \$25,000.
- 24 (8 percent) had not been paid at all for some of the hours they had worked.

Survey results further suggest a startling rise in contingent employment relationships, especially in manufacturing, where it is increasingly commonplace for workers to be hired via temporary staffing agencies, and a high correlation between wage theft and low-wage work (jobs paying less than \$10 per hour).

In this report, we contextualize these new survey results and recent Iowa wage claims data in relation to broader economic trends and policy choices. Over the course of the last few decades, the lives and prospects of American working families have been shaped by three overlapping trends. A steady erosion of workers' bargaining power has brought with it steady erosion in job security and job quality. This has been accompanied by a parallel collapse in labor market policies and their enforcement. And to make things worse, the loss of both private security and public protection have come just as work and private obligations (child care, eldercare) are becoming more pressing and more onerous. Our social contract, in short, is both frayed and outdated.² As a result, we find that Iowa working families are less secure and more vulnerable than perhaps at any time since the Great Depression, and conclude with consideration of policy and organizing strategies for beginning to reverse these trends.

The Bare Minimum

Our survey focused on low-wage workers in Johnson County, Iowa, in hopes of gaining insight into local patterns of wage theft in relation to the growing phenomenon of low-wage work. According to the Organization of Economic Cooperation and Development (OECD), the United States as a whole has a greater percentage of low-wage workers than any other developed country. Twenty-five percent of all workers in the U.S. are classified as low-wage workers by the OECD. Many of these workers earn the minimum wage or just above it.³

**25% of U.S. workers
are at low wage;
many at or near the
\$7.25 minimum**

Of 238 workers reporting an hourly wage in our survey, more than half (and more than a third of those surveyed) earn \$10/hour or less. The average wage of those reporting hourly compensation is \$10.59/hour. Only 5 percent (12 workers) make more than \$15.00/hr. While Johnson County, where the survey was conducted, is widely perceived as an economically vibrant area of the state, the reality is more complicated. While the Iowa City area's "college town" economy supports some high-salary jobs in health care and academia, it likewise generates many low-wage jobs in restaurant, hospitality, and retail sectors — and, as we report below, in manufacturing and temporary services.

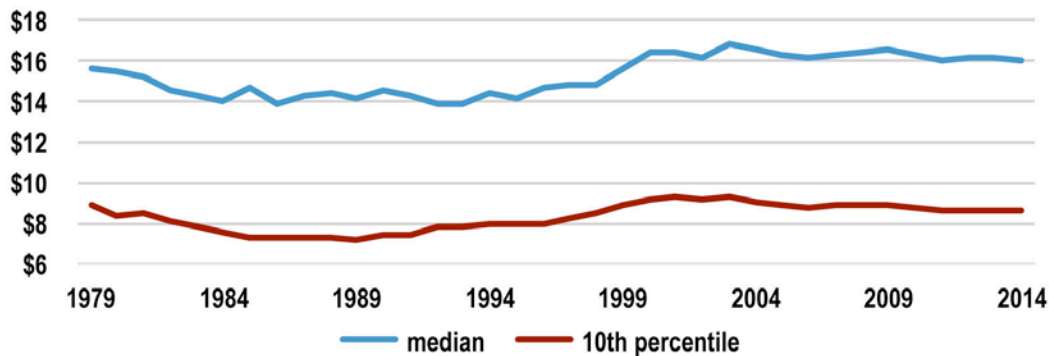
At the same time, low-wage workers in Johnson County must contend with some of the highest costs of living in the state: the "family supporting" hourly wage (the wage needed to meet a frugal, basic needs budget⁴) in Iowa City is \$22.37/hr for a single parent with one child, and \$18.17/hr for a couple with two children where both work full time.⁵

Iowa's low minimum wage is a clear contributing factor to these high rates of poverty. Iowa last increased its minimum wage to \$7.25 in 2008 — 18 months before the federal minimum reached the same level (in July 2009). At the time Iowa moved to \$7.25, only Illinois among neighboring states had a higher minimum; but today, no state minimum wage has lingered at \$7.25 longer than Iowa's. Meanwhile, 29 states — including five of six states bordering Iowa — have already approved higher minimums.⁶

There are three ways to think about our low minimum wage (in the state and in the nation) as a broken promise. In one respect, it is simply insufficient: the "floor" in our wage policy is just too low. A single Iowa parent who has two children and works full time would need to make \$28.07 per hour just to be able to pay for a basic, no-frills monthly budget, earning the equivalent of \$56,135 annually before taxes and credits.⁷ But a full-time minimum wage job pays less than \$15,000 per year.

In another respect, the minimum wage has failed to sustain an equitable distribution of economic rewards and economic productivity. The real value of the minimum wage has fallen 25 percent since the late 1960s. If the minimum wage had simply kept pace with gains in productivity, with the growth of the economy, it would be nearly \$19/hr today.⁸ If it had kept pace with the income growth of the top 1 percent, it would be \$27.00/hr.⁹ Since the 1970s, real hourly wages for most workers have lagged well behind the growth in economy-wide productivity. Between 1979 and 2014, the real hourly wages of the median wage worker (half of all workers earn more, half earn less) were essentially flat — rising less than 3 percent over that entire 34-year span, or less than 0.1 percent per year. Over the same span, the real wages of low-wage workers (those at the 10th percentile) fell by more than 2 percent (see Figure 1).¹⁰

Figure 1. Long-Term Flatness in Iowa Wages — In Middle and Below
Median and 10th Percentile Wages, Iowa, 1979-2014 (2014 dollars)



Source: Economic Policy Institute analysis of Current Population Survey data 2014 dollars, using CPI-U-RS

Finally, because even small increases to wages at or near the minimum can offer substantial benefits at little cost, allowing the minimum wage to stagnate is simply bad public policy. Recent research has demolished the notion that minimum wage

hikes might come at the expense of job growth, and confirmed instead a host of ancillary benefits for workers, local economies, and businesses alike — including productivity gains.¹¹ And broader social benefits of increasing the minimum wage — stemming wage stagnation, building incomes and assets, reducing poverty, and easing the considerable public costs of low-wage work — are extensive and well-documented.¹²

Precarious Work in a Precarious Economy

Results of our survey show that eastern Iowa is far from immune to troubling trends that have come to characterize employment relationships in our national economy. The security of private employment — the likelihood that a job can be relied on to provide stable work at decent wages, and some buffer from the risk of unemployment or sickness or retirement — has declined dramatically across the last generation. This “risk shift” has

‘Risk shift’: Security of job and decent wages on decline

occurred against a backdrop of global competition, but its roots are institutional and political. The ability of workers to shape the conditions of their own employment has faded as fewer workers are covered by collective bargaining agreements, and the declining strength of labor unions overall has diminished workplace and public pressure on employers to sustain a social contract based on high-wage, good-benefit, career employment.

Perhaps the most remarkable discovery in our survey is the prevalence of temporary staffing in what used to be the core of the high wage economy: manufacturing. Of our survey respondents, nearly a quarter (72) reported working for a temporary or staffing agency, and virtually all of those (62) were employed in manufacturing. Of all of the manufacturing workers in the survey

(150), well over a third were employed by a staffing agency rather than by their actual place of employment. More than half of workers surveyed (162 of 300) also reported working hours that vary from week to week. This is consistent with a wider trend of employers' increased use of flexible or "just-in-time" scheduling.¹³

Nationally, the share of workers whose employment status is insecure and contingent (day laborers, temp workers, and the like) has swollen to 25 or 30 percent of the labor force.¹⁴ For all workers, job tenure has slipped and internal labor markets have weakened: workers spend less of their working lives at one place of employment, and those places of employment are less likely to offer opportunities for promotion or advancement.¹⁵ The insecurity and uncertainty of the employment relationship cuts across firms and industries. Certainly at the margins of the labor market, employment is perpetually insecure and the risk and reality of wage theft is very high. Recent studies of the experience of day laborers, for example, have found that half suffered unpaid wages, underpayment of overtime, and other wage and hour violations.¹⁶ What is just as troubling, and evident in the Iowa compliance and survey data, is that this insecurity is spreading across more and more of the labor market.

Wage theft is also frequently linked to precarious employment relationships that result when employees are misclassified as "independent contractors" in order to avoid conventional employer responsibilities — not only for regular and documented wages and overtime pay, but for contributions to social insurance and workers compensation programs as well.¹⁷ This problem is especially rife in construction, where short-term contracts, day labor, and varied patterns of supervision encourage the practice. Investigations undertaken by Iowa Workforce Development's Misclassification Task Force in 2010 found "the impact of misclassification is broad and deep" and that the problem was affecting "thousands of Iowa workers." Of the 230 employers (responsible for the misclassification of 2,602 workers) identified by the task force, 112 were in construction.¹⁸ Recent compliance data suggest that this problem has only gotten worse. IWD and DOL claims by Iowa construction workers (see Figure 3) run three to five times ahead of the sector's share of Iowa jobs.

Overall trends suggest that low-wage, contingent, and high-turnover employment is displacing high-wage, career, and unionized employment at the core of the economy nationally and in Iowa. Meanwhile, state and federal policies have largely so far failed to fill in the gaps by facilitating collective bargaining, expecting more of employers, or setting and sustaining higher labor standards.¹⁹

What is 'Wage Theft'?

Wage theft occurs whenever a worker is robbed of legally owed wages because an employer breaks the law or a contract. Common forms of wage theft include:

Nonpayment of wages: An employer fails to pay workers for some or all hours of work performed, or fails to pay workers in a timely fashion.

Underpayment of wages: An employer pays workers less than they were promised or less than they are legally owed under state or federal statutes.

Tipped job violations: An employer pays tipped employees less than the legally mandated wage for tipped jobs, or forces tips to be "shared" with managers

Deduction violations: An employer diminishes workers' pay by making unauthorized or illegal deductions from paychecks

Misclassification: An employer labels an employee as an "independent contractor" in order to avoid obligations to pay minimum wage and overtime (along with a host of other employment laws, and unemployment insurance, workers' compensation, and income tax payments).

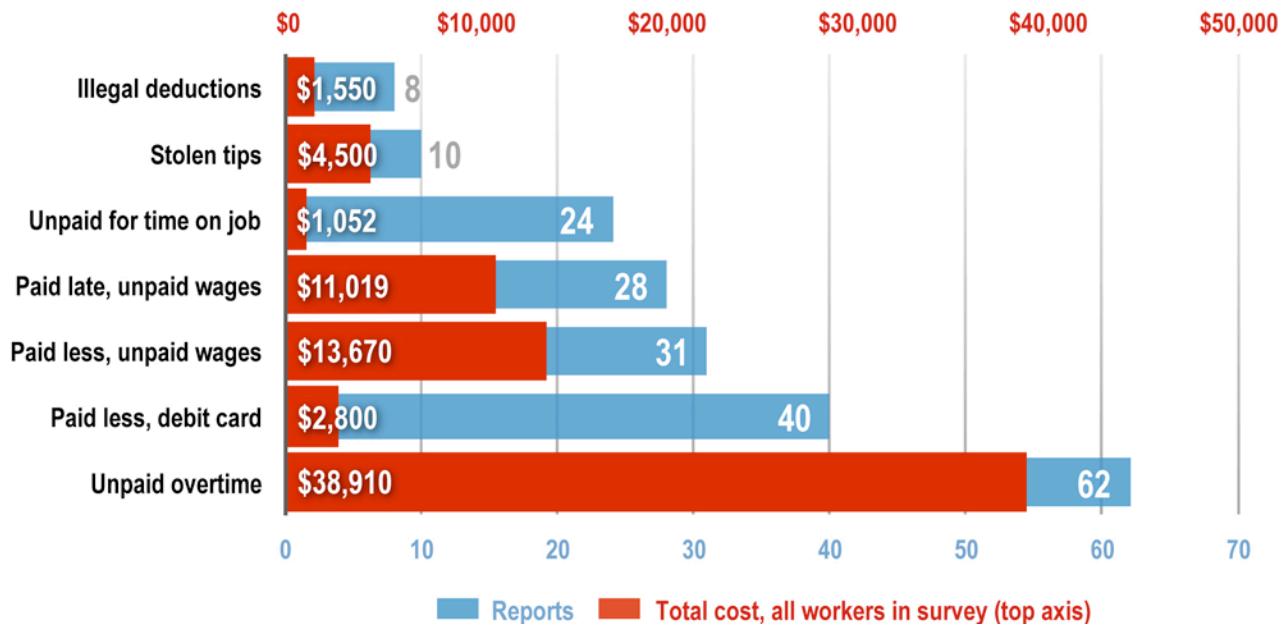
Wage Theft in Iowa

Local survey results confirm clear and troubling patterns of wage theft in Iowa. In all, 25 percent of respondents (73 of 300) reported having experienced some form of wage theft in the past year, and over half of those reported multiple instances of wage theft. These patterns are summarized in Figure 2.

Local survey: 25% report some form of wage theft in year

Figure 2. Wage Theft Takes Many Forms in Recent Iowa Experiences

Unpaid Overtime Leading Example (Both in Cost and Number of Reports) in Center for Worker Justice Survey, 2014



Source: Center for Worker Justice Survey, 2014

The most common form of wage theft, experienced by 62 respondents (20 percent), was unpaid overtime, amounting to nearly \$40,000 in unpaid wages. Fifty-nine (about 20 percent) reported late or unpaid wages, totaling just under \$25,000. A smaller cohort (24, or 8 percent) worked for time they were not paid for, and a few (eight respondents) reported illegal deductions from their paychecks.

These results are not surprising, given what we know about the prevalence of wage theft nationally. Recent national studies, employing innovative survey techniques, have sketched the broad dimensions of the problem.²⁰ *Broken Laws, Unprotected Workers*, a 2009 survey of low-wage workers in the New York, Los Angeles and Chicago, found over a quarter were paid less than the minimum wage, over half did not receive a paystub, over two-thirds experienced “off the clock” or meal break violations, and over three quarters were unpaid or underpaid for overtime hours. More than two-thirds (68 percent) of those surveyed had suffered at least one pay-related violation in their previous week of work.²¹ A 2014 Department of Labor Study, focusing just on the minimum wage, found a violation rate of 3.5 to 4.0 percent of all covered workers, representing a substantial share of weekly income (35 to 70 percent depending on the estimation method) for affected workers and correspondingly steep costs in uncollected payroll taxes and income taxes, and social expenditures.²² In turn, recent assessments of state law have found both gaping statutory holes, and meager commitment to (or resources for) basic compliance.²³

Our survey also asked respondents to indicate how they received their wages, since nonstandard methods of payment (via cash, debit card, or some other method) and a lack of access to printed pay stubs are frequently associated with wage theft. Without a pay stub, it is difficult for workers to determine whether they have been paid for all hours worked, to identify the type and amount of any deductions from pay, and to confirm the regular hourly or overtime rates on which pay has been based. While the importance of such documentation is broadly recognized, a quirk in Iowa law allows employers to avoid providing pay stubs, unless an individual worker makes a written request for an accounting each time she receives a paycheck.²⁴

While overall wage payment patterns reported by local survey respondents are relatively consistent and formal (especially in comparison to similar surveys conducted in large urban areas), areas of concern are also evident. On the one hand, 95 percent of local workers surveyed report earning an hourly wage, and 94 percent receive pay on a regular weekly or biweekly schedule. On the other hand, only 85 percent report being paid by check or direct deposit, leaving 15 percent who are paid in cash or some other nonstandard method — including 23 respondents who have worked jobs at which pay was provided only via a debit card. And while 93 percent have been told that required taxes and social insurance are being withheld from their checks, only 87 percent receive a pay stub detailing those deductions.

Workers face additional problems when pay is provided via debit card. Those who receive a check, but no stub, can at least determine the total amount of pay received, but workers paid via debit card may not be able to confirm even that basic fact. In our survey, of the 50 respondents who reported being paid with a debit card at some point in the last 12 months, many reported paying fees (29), having trouble accessing their money (23), or being paid less than they had earned.

Iowa law allows payment by “direct deposit” instead a paycheck for workers hired after July 1, 2005, unless prohibited by a collective bargaining agreement.²⁵ The deposit must be made into a financial institution of the employee’s choice. The law requires that any fees or costs must be paid by the employer. In practice, however, employers often choose the financial institution, which may not even be located in Iowa, and workers are often charged fees to access their pay.

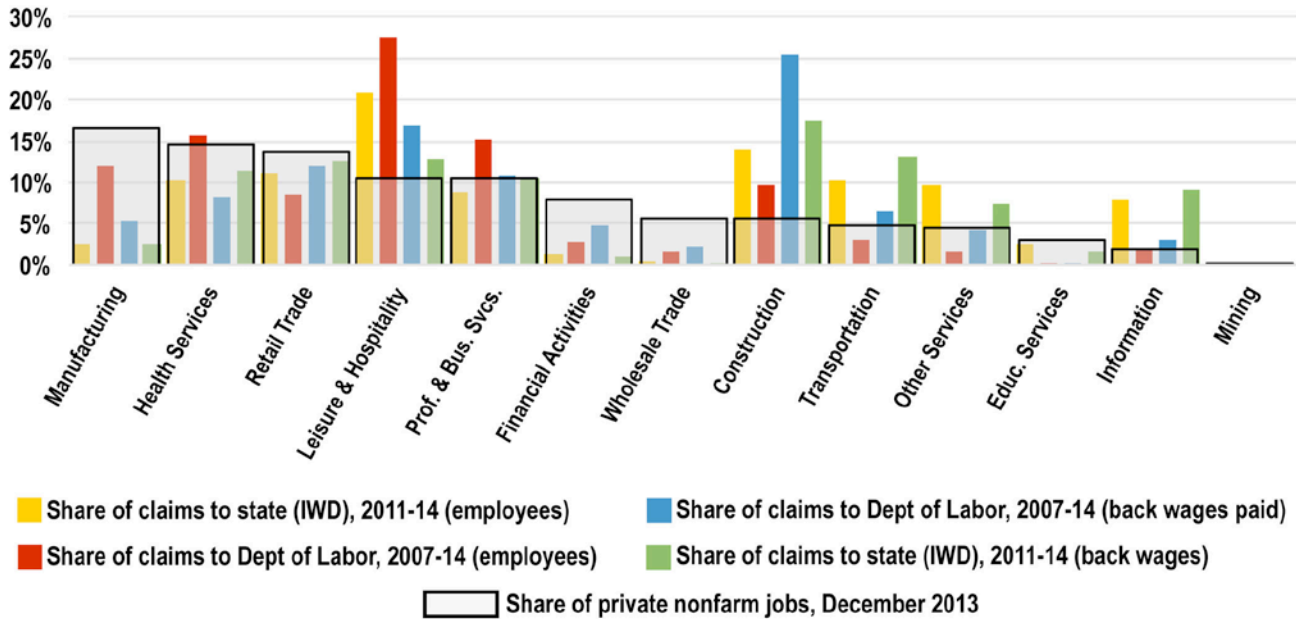
Available compliance data (state and federal) fleshes these patterns of wage theft in Iowa, but again the data is imperfect. Given both the nature of the problem, and of the claims process, *reported* wage claims are a poor index of the incidence or the distribution of actual violations. Research has shown that most workers who experience wage theft do not file claims (for example, workers report only about one of every 130 violations of overtime law²⁶). Complaints are driven less by the rate of violation than by a host of other circumstances, including the information costs (often exaggerated by language barriers) of navigating highly complex complaint processes, fear of retaliation, and for some workers, fear of inviting scrutiny of immigration status. Indeed the very conditions that make wage theft possible — contingent and precarious employment, high rates of turnover, little union representation — also make its reporting less likely.

Research has shown that most workers who experience wage theft do not file claims; in fact, the employment conditions that make wage theft possible make its reporting less likely

With these caveats in mind, the compliance data is nevertheless instructive. Figure 3 compares wage theft claims, by sector, to the share of all private nonfarm jobs in those sectors. Wage theft claims (to the Department of Labor or Iowa Workforce Development) are clustered in leisure and hospitality, and construction — sectors of the economy notorious for uneven scheduling, contingent employment relationships, and paycheck violations. Reports to Iowa Workforce Development are also high in service and information sectors, where contingent employment and misclassification of employees are common.

Figure 3. Wage Theft Claims Clustered in Leisure and Hospitality, and Construction

Iowa Jobs and Wage Claims: Percent Accounted for by Each Sector, 2007-2014



Sources: U.S. Dept of Labor, Iowa Workforce Development

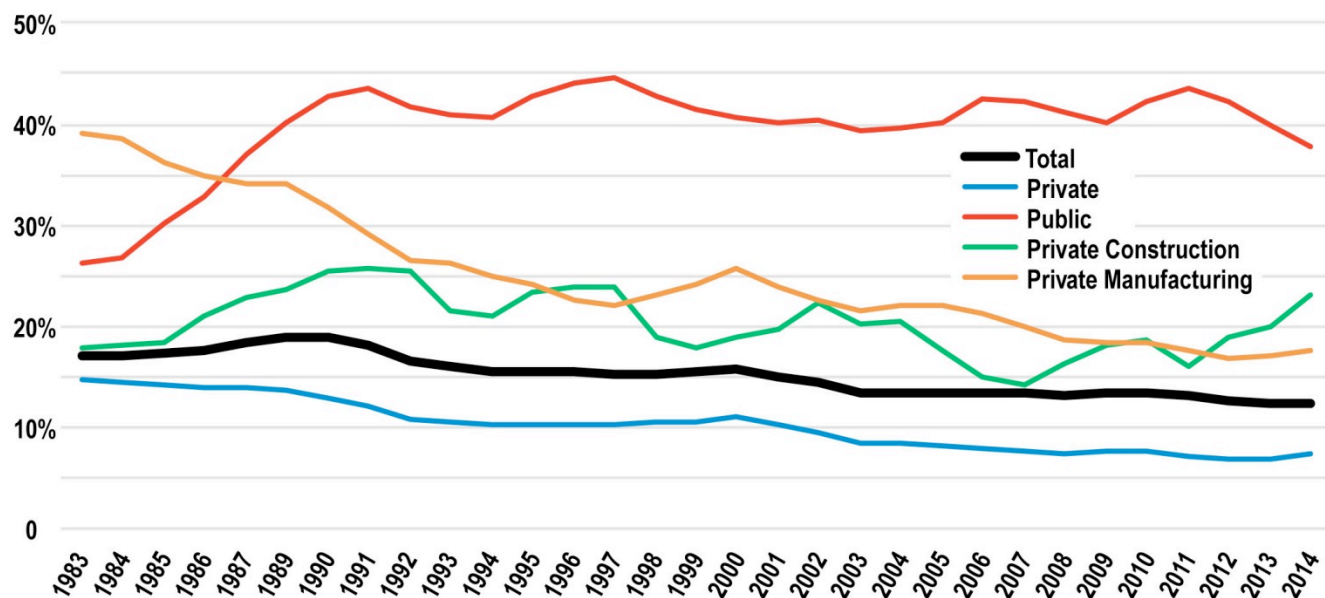
Alongside the distribution of claims across the economy — with unsurprising spikes in restaurant work, business services, construction, and some low-wage manufacturing subsectors, wage theft also varies across firms, but here the pattern is more ragged. While employment at small or fly-by-night firms is inherently risky, many larger firms and chains in low-wage industries have made wage theft an integral part of their business model.²⁷ Recent high-profile wage theft cases in Iowa have exposed and implicated the day-to-day labor practices of big box retailers like such as Walmart and restaurant chains like Outback and Applebee's.²⁸

The Union Difference and the Growing Crisis of Enforcement

Although many factors have contributed to the expansion of our low-wage economy and the rise of wage theft, two stand out as most important: the decline in union density and the deliberate weakening of legal enforcement. The gradual decline in the percentage of U.S. workers who have access to union representation is well documented. Nationally, the share of workers who belong to unions (and can bargain collectively with their employers) has fallen from its peak of over a third of the labor force in the late 1950s to barely 1 in 10 today. In Iowa (see Figure 4), union density in the private sector has fallen by half since 1983 (from 14.7 percent to 7.4 percent) while union density in manufacturing has fallen even more precipitously, from almost 40 percent to 17.6 percent.

Union decline carries impact on legal protections

Figure 4. Iowa Union Membership Down by Half in 30 Years — Even More in Manufacturing
Declining Union Density in Iowa, 1983 to 2014



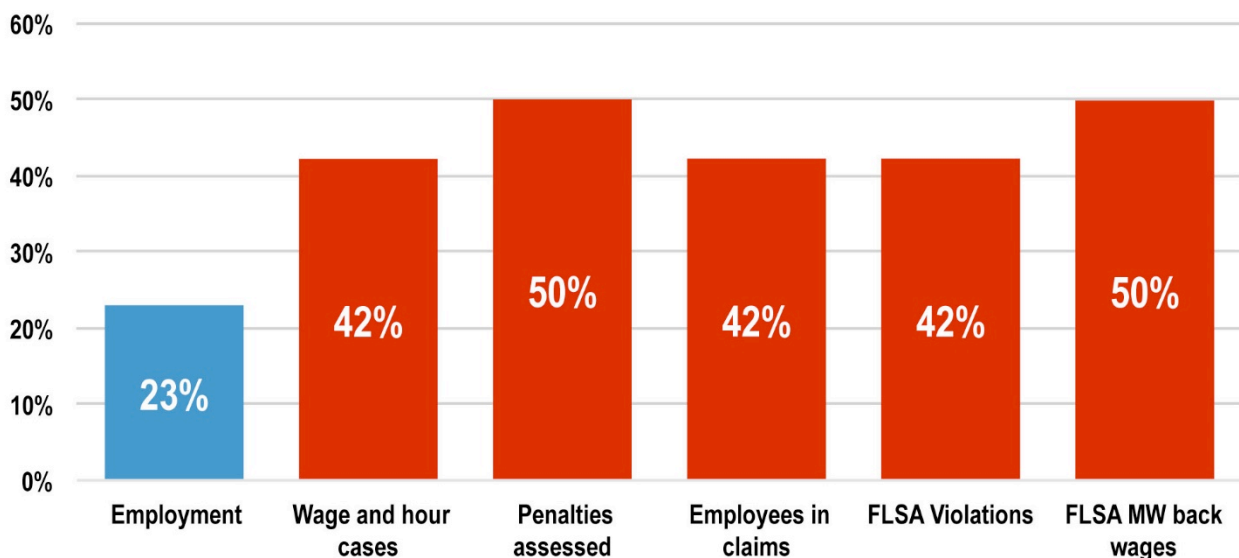
Source: Barry T. Hirsch and David A. Macpherson, *unionstats.com*.

This loss of representation and voice in the workplace has clear repercussions for wages and wage standards. Since the 1970s, as we have seen, the real hourly wages of most workers have lagged well behind the growth in economy-wide productivity.²⁹ Other forms of security and compensation have fallen alongside wages. The share of new workers who can count on employer-provided health insurance (often a collectively bargained benefit) has virtually collapsed — for young college graduates, the rate fell from 61 percent to 31 percent between 1989 and 2012; for high school graduates it fell from 24 percent to 7 percent over the same span.³⁰

Wage losses are especially acute in sectors like meatpacking, where industry restructuring in tandem with concerted employer efforts to weaken or eliminate unions have driven dramatic declines in union density. At the end of the 1970s, just under half of meatpacking workers belonged to a union.³¹ This fell to a third by the early 1980s, and to less than one in five by the end of the decade.³² Between 1947 and 1979, the average real hourly wage of meatpacking workers rose 80 percent; after 1979 it fell nearly 30 percent. In 1970, packinghouse wages were about 20 percent higher than the average manufacturing wage; by 2002 they were 20 percent lower.³³ The impact of such a loss in union representation is in turn visible in the pattern of wage theft claims in Iowa. While manufacturing is not heavily represented among wage and hour complaints made to either the federal Department of Labor or to Iowa Workforce Development, nondurable, food, and especially packing workers make up much of that cohort. In claims by production workers made to Iowa Workforce Development, fully a third come from meatpacking alone. While food products account for less than quarter of manufacturing employment in Iowa, they account for over 40 percent of federal wage-and-hour cases and fully half of federally assessed penalties and back wages (Figure 5).

Food industry jobs are a smaller share of manufacturing in Iowa than the industry's share of wage theft claims by its employees

Figure 5. Wage Theft Claims in Food Industry Disproportionately High Among Manufacturing
Food Industry Wage Claims, as a Share of all Manufacturing Claims



Note: The blue bar shows the food industry’s share of manufacturing employment; the red bars show its share of wage theft claims and penalties by various measures. FLSA: Fair Labor Standards Act; FLSA MW: Fair Labor Standards Act minimum wage.

Source: Department of Labor compliance database

The growing number of workers without a union might be expected to turn to state and federal agencies for help, but those who do may be disappointed by the lack of resources available to assist them. State and federal enforcement agencies lack the resources to follow up on claims, let alone launch audits or investigations of offending industries. Between 1974 and 2004, investigative staffing in the Department of Labor’s Wage and Hour Division fell by 14 percent even as the number of covered workers *grew* by over 50 percent.³⁴ The current political climate has both savaged state enforcement budgets³⁵ and allowed regulatory innovations to be portrayed as a “burden” on business.³⁶ Current economic conditions make it both more likely that employers will resort to such violations, and less likely that workers will be in a position to object. The intertwined disadvantages posed by union losses, precarious employment relationships, and an inadequate minimum wage (in value and coverage) are thus compounded by a failure to enforce even our most basic labor standards.

Our local survey illustrates how existing enforcement systems that rely solely on individual workers’ knowledge of legal rights and ability to navigate complex complaint procedures may prevent many instances of wage theft from ever showing up in official claims data. Of the 300 respondents in our survey, over 40 percent (128) experienced some form of wage theft, but *only about a quarter of those* (33) pursued claims. Of those who pursued claims, *not one* had access to legal counsel, union representation, or other assistance to do so.

Claims filed by only 1 in 4 survey respondents who experienced wage theft

Enforcement resources in the states are even more meager than in the federal agencies, and Iowa trails the pack.³⁷ Iowa Workforce Development has in recent years employed but one full-time wage claims investigator — responsible for juggling upwards of 175 cases at once. Wage complaints can take months to process, and the leadership of IWD has candidly acknowledged that it lacks the personnel or resources to do its job adequately.³⁸

Workers who experience wage theft also have the right to pursue private legal action against their employers under both federal and Iowa laws, but pursuing civil enforcement poses similar challenges. Victims of wage theft may have a hard time finding a lawyer to take their case; few attorneys in Iowa specialize in labor and employment law, and most who do, represent employers. Lastly, even workers who are successful in winning a claim or suing an employer may never collect what is due. Employers may close up shop in order to avoid paying a judgment or may disappear in bankruptcy.

Policy Solutions

The epidemic of wage theft in Iowa is inextricably entangled with the erosion of other labor and employment standards, mounting barriers to traditional forms of union organization, and the increasing precarity of low-wage work. Putting an end to wage theft will thus require multi-faceted reforms and strategies for transforming employment relationships. As we detailed in our 2012 report, addressing these intertwined problems requires work on at least three fronts: legislative change, administrative reform, and new approaches to workplace and community organizing. At the same time, any such commitment to higher standards needs to be accompanied by a commitment to sustain and enforce those standards.³⁹

First and foremost, all levels of government have a role to play in rebalancing the economy by raising the pay of low-wage workers. Numerous federal proposals to increase minimum wage have failed in recent years, leading 29 states to increase their minimum wages above the current federal rate of \$7.25. In the 2015 Iowa legislative session, Senate File 269, which would have raised the minimum wage to \$8.00 on July 1, 2015, and \$8.75 on July 1, 2016, passed in the Senate largely on party lines, but died in the House when Republican leaders refused to allow it to be debated. In the absence of state or federal action, cities and counties across the country have increased the minimum wage in their own communities.⁴⁰ As of this writing, a move in Iowa by Johnson County supervisors is underway to establish a county minimum wage of \$10.10.

Second, emerging policy innovations to regulate and curb the growth of the temporary employment industry deserve attention from the public and policy-makers. Indeed, the U.S. is one of the few countries that does not regulate temporary employment or protect temporary workers.⁴¹ The European Union, for example, in 2011 adopted the “Temporary and Agency Workers Directive” guaranteeing certain minimum working conditions to temporary workers.⁴² States are also taking action. Illinois’ Day and Temporary Labor Services Act was strengthened in 2006, partly to provide more stability to workers and partly to reduce wage theft.⁴³ The Illinois law requires temp agencies to register with the state Department of Labor, to maintain accurate time records, and to provide certain information to temporary employees about their assignments, hours, wages and their legal rights. In some respects, Iowa’s existing Construction Contractor Registration statute (Iowa Code Chapter 91C) could serve as a model for requiring temporary staffing agencies to conduct similar basic reporting and record-keeping in Iowa.

Legislative changes in wage payment laws remain necessary to cover gaps and strengthen enforcement. Under existing state and federal law, chances that unscrupulous employers will get caught are slight, as are the penalties if they are caught. As James Leonard, a former Department of Labor lawyer, concedes, “I hate to put it this way, but there’s almost a financial incentive to take a chance that you won’t be caught, because even if you are caught you’ll only have to pay back wages.”⁴⁴ On the federal level, the FLSA leaves too many workers uncovered — either through occupational exemptions or through its inability to stem worker misclassification. The FLSA

requires only that workers be paid the minimum, not that they be paid the wages they were promised (a worker who has not been paid at all may have a claim under the FLSA, but a worker who was promised \$10/hour and paid only \$8/hour does not). Iowa's minimum wage law (Chapter 91D) applies to a broader class of workers, but contains no provision for overtime, leaving the FLSA the only recourse for Iowa workers on that issue.

Iowa's Chapter 91A is relatively strong as state wage payment statutes go, but also falls short in some key respects.⁴⁵ Proposals to remedy these shortfalls — by requiring employers to keep records of terms of employment, better protected workers from employer retaliation, and devote new resources to enforcement and public education — have been introduced repeatedly in the Iowa Senate but have yet to gain consideration in the Iowa House.⁴⁶

On the administrative front, much more could be done to effectively enforce existing wage payment laws. With a stronger (and better funded) commitment, Iowa Workforce Development could streamline the claims process, provide worker outreach and education, improve its own record-keeping and reporting, and actively investigate industries with a high number of violations — rather than simply reacting to isolated complaints. Both proactive investigation and efficient resolution of workers' claims, in turn, depend upon adequate funding for enforcement. Even the Iowa Association of Business and Industry, a longtime opponent of strengthening Iowa's wage payment statutes, has conceded that wage theft is indefensible and that the state should focus "on providing the resources necessary for strong enforcement."⁴⁷

And finally, on the community front, unions and other local organizations can play a crucial role in highlighting the problem, advocating for both workers and legislative change, and working with stakeholders — workers, employers, local governments and enforcement agencies — toward constructive solutions. The importance of this "eyes and ears on the ground" presence cannot be underestimated. Partnerships between state agencies and community organizations were crucial to the success of the 2011-12 misclassification task force in Iowa. And the leadership of groups like Iowa Citizens for Community Improvement and the Center for Worker Justice of Eastern Iowa have played a key role in documenting wage theft and pressing solutions. These groups are especially important, given the precarious employment status of many workers, and the absence of union representation in the majority of workplaces.

Conclusion

The American workplace is an increasingly precarious place. The decline in union representation, the unraveling of the employment relationship, and the erosion of legislated labor standards have left American working families poorer, and less secure. All of these trends have magnified the likelihood that even legally earned wages are sometimes unpaid or underpaid. These patterns are amply documented — in Iowa and across the nation, in our most recent business cycle and across the last generation. And they are underscored by our recent survey of low-wage workers in Eastern Iowa, which shines a bright light on local patterns of low-wage employment, tenuous and uncertain work arrangements, and wage theft.

The solutions, in this respect, are both urgent and obvious. In the absence of the security provided by high-wage, career employment, and in the absence of workplace organizations sufficient to sustain workers' bargaining power, public policy must fill in the gaps. We need labor laws and labor standards that match — in their occupational reach, and in their enforcement mechanisms — the economy in which we live. In the long run, we can hope that enhancing the terms of employment and restoring the ability of workers to form unions might make work more

rewarding and more secure. In the short run, we should do no less than ensure that hard work is rewarded; that wages are sufficient to secure family well-being, and that wages earned are also wages paid.

¹ The survey pool was 65 percent male and 35 percent female. By race, 75 percent identified as African-American and 23 percent as white. By national origin, the survey pool was about one third North American (97), about one-third African (94; 76 from Congo, 6 from Sudan) and about one-third Central or South American (79; 64 from Mexico), with a few respondents from the Middle East (3), the Caribbean (3) and Asia (1). The largest reported first language was English (at 38 percent) followed by Spanish (29 percent) and French (27 percent)—the latter reflected the large Congolese cohort.

² For an overview of the mismatch between patterns of work, and the policies that shape the labor market, see Eva Bertram, “Doors, Floors, Ladders, and Nets: Social Provision in the New American Labor Market,” *Politics and Society* 41:1 (2013), 29-72.

³ Lawrence Mishel, “The United States Leads in Low-Wage work and the Lowest Wages for Low-Wage Workers,” (Economic Policy Institute, September 2014) <http://www.epi.org/blog/united-states-leads-wage-work-lowest-wages>; Elise Gould, “Why America’s Workers Need faster Wage Growth-And What We Can Do About It” (EPI, August 2014) <http://www.epi.org/publication/why-americas-workers-need-faster-wage-growth/>

⁴ The basic-needs budgets constructed for this report represent a very frugal living standard; using costs as of 2013 (with the exception of health insurance), the budgets are based on what is needed to “survive” rather than “thrive.” This includes allowances for rent, utilities, food prepared at home, child care, health care, transportation, clothing and other household necessities. The basic budget does not include savings, loan payments, education expenses, any entertainment or vacation, or meals outside the home. <http://www.iowapolicyproject.org/2014Research/140226-COL.html>

⁵ <http://www.iowapolicyproject.org/2014docs/140226-COL-Appendix3.pdf>

⁶ U.S. Department of Labor, <http://www.dol.gov/whd/minwage/america.htm>

⁷ Iowa Policy Project, *The Cost of Living in Iowa 2014*, <http://www.iowapolicyproject.org/2014Research/140810-CostOfLiving.html>; assumes no work supports such as child care, housing, food or energy assistance.

⁸ See <http://www.epi.org/publication/lagging-minimum-wage-reason-americans-wages/> Johns Schmitt, <http://www.democracyjournal.org/29/minimum-wage-catching-up-to-productivity.php> http://www.dissentmagazine.org/online_articles/whats-so-bold-about-9-00-an-hour-benchmarking-the-minimum-wage

⁹ Author’s calculations from top incomes database

¹⁰ <http://www.epi.org/publication/causes-of-wage-stagnation/>

<http://www.epi.org/publication/charting-wage-stagnation/>

¹¹ Schmitt, *Why Does the Minimum Wage Have No Discernible Effect on Employment?* (CEPR, 2013)

¹² Elise Gould, *2014 Continues a 35-Year Trend of Broad-Based Wage Stagnation* (EPI, 2015); Arin Dube, *The Minimum We Can Do*, *New York Times* (November 30, 2013).

¹³ See <http://www.demos.org/publication/scheduling-hourly-workers-how-last-minute-just-time-scheduling-practices-are-bad-workers>

¹⁴ The Bureau of labor Statistics has not conducted its contingent work survey since 2005 (see <http://www.bls.gov/news.release/conemp.nr0.htm>). The 25-30 percent estimate comes from surveys by management consulting firms, including Accenture (<http://www.accenture.com/SiteCollectionDocuments/PDF/Accenture-2013-Skills-And-Employment-Trends-Survey-Perspectives-On-Training.pdf>) and Deloitte (<http://www2.deloitte.com/content/dam/Deloitte/global/Documents/HumanCapital/dttl-hc-chapter18-8092013.pdf>)

¹⁵ A good summary account is Arne Kalleberg, “The Social Contract in an Era of Precarious Work,” *Pathways* (Fall 2012), 3-4.

¹⁶ On day labor, see U.S. General Accounting Office, *Worker Protection: Labor’s Efforts to Enforce Protections for Day Laborers Could Benefit from Better Data and Guidance*, GAO-02-925 (2002); Immigrant Rights/International Human Rights Clinic, Seton Hall Law School, *All Work and No Pay: Day Laborers, Wage Theft, and Workplace Justice in New Jersey* (January 2011), 2; Abel Valenzuela Jr., Nik Theodore, Edwin Meléndez & Ana Luz González, *On the Corner: Day Labor in the United States*, UCLA Center for the Study of Urban Poverty, University of Illinois at Chicago Center for Urban Economic Development & New School University (January 2006); Daniel Kerr & Chris Dole, *Challenging Exploitation and Abuse: A Study of the Day Labor Industry in Cleveland* (2001); Dep’t of Systems Management for Human Services, *An Account of Day Laborers in Fairfax County* (June 2004); Abel Valenzuela Jr. & Edwin Meléndez, *Day Labor in New York: Findings from the NYDL Survey*, UCLA Center for the Study of Urban Poverty & New School University Community Development Research Center New School University (2003).

¹⁷ See Lalith De Silva, et al., *Independent Contractors: Prevalence and Implications for Unemployment Insurance Programs*, Planmatics, Inc., Prepared for the US Department of Labor Employment and Training Administration (2000); U.S. General Accounting Office, *Employee Misclassification: Improved Coordination, Outreach, and Targeting Could Better Ensure Detection and Prevention* (August 2009); Workers Defense Project, *Building Austin, Building Injustice: Working Conditions in Austin’s Construction Industry* (2007).

¹⁸ *Iowa Misclassification Task Force, 2nd Report* (December 30, 2010); David DeWitte, “Task force tally: 2,602 workers misclassified as contractors,” *The Cedar Rapids Gazette* (January 10, 2011). More generally, see Sarah Leberstein, *Independent Contractor Misclassification Imposes Huge Costs on Workers and Federal and State Treasuries* (NELP, June 2010)

¹⁹ See Arne Kalleberg, *Good Jobs, Bad Jobs: The Rise of Polarized and Precarious Employment Systems in the United States, 1970s-2000s* (2011); Jacob Hacker, *The Great Risk Shift: The New Economic Insecurity and the Decline of the American Dream* (2008).

- ²⁰ See Rebecca Smith, et al., [Winning Wage Justice: A Summary of Research on Wage and Hour Violations in the United States](#) (National Employment Law Project, January 2012) for an excellent summary of recent research.
- ²¹ Annette Bernhardt et al., [Broken Laws, Unprotected Workers: Violations of Employment and Labor Law in America's Cities](#) (National Employment Law Project, 2009), Table 3.1, p20; 27. See also Siobhán McGrath, [A Survey of Literature Estimating the Prevalence of Employment and Labor Law Violations in the U.S.](#) (New York: Brennan Center for Justice, 2005) and Ruth Milkman et al., [Wage Theft and Workplace Violations in Los Angeles: The Failure of Employment and Labor Law for Low-Wage Workers](#) (Institute for Research on Labor and Employment, UCLA, 2010), Table 2, p18.
- ²² Department of Labor, [The Social and Economic Effects of Wage Violations: Estimates for California and New York](#) (December 2014)
- ²³ Zach Schiller and Sarah DeCarlo, [Investigating Wage Theft: A Survey of the States](#) (Policy Matters Ohio, November 2010; Tim Judson and Cristina Francisco-McGuire, [Where Theft is Legal: Mapping Wage Theft Laws in the 50 States](#), (Progressive State Network, June 2012); National State Attorney General's Program, [Enforcement of State Wage and Hour Laws: A Survey of State Regulators](#) (Columbia Law School, April 2011); David Weil, [Improving Workplace Conditions Through Strategic Enforcement](#) (Report to the Wage and Hour Division, May 2010).
- ²⁴ Iowa Code Section 91A.6(3).
- ²⁵ Iowa Code Section 91A.3(3).
- ²⁶ David Weil and Amanda Pyles, [Why Complain? Complaints, Compliance, and the Problem of Enforcement in the U.S. Workplace](#), *Comparative Labor Law and Policy Journal* (2006), p78.
- ²⁷ Ann Haley-Lock, "The Structural Contexts of Low-Wage Work: Restaurant Employment Practices Across Firm Geography, Size, and Ownership Status," *Journal of Poverty* 16:4 (2012), 447–468.
- ²⁸ Walmart employees in Clinton, Iowa, filed a class-action suit alleging the company had regularly required employees to work overtime without pay. Walmart settled the suit in 2008 (along with 62 other wage and hour class-action suits it was facing across the nation), agreeing to pay \$11 million distributed among 97,259 people who had worked at Walmart stores in Iowa between June 1999 and May 2009. See Steven Martens, [Wal-Mart Wage Suit Settled for \\$11M](#), *Quad City Times* (Oct. 14, 2009). Tipped workers at Applebees filed a complaint after being forced to pool tips with management. See ["Senate Democrats Offer Plan to Stop Wage Theft,"](#) *Des Moines Register* (January 27, 2015).
- ²⁹ <http://www.epi.org/publication/causes-of-wage-stagnation/>
<http://www.epi.org/publication/charting-wage-stagnation/>
- ³⁰ <http://www.epi.org/publication/class-of-2014/>
- ³¹ <http://www.ers.usda.gov/publications/aer-agricultural-economic-report/aer785.aspx#.UWrNnqLviSo>
- ³² http://www.jstor.org/stable/40342745?seq=1#page_scan_tab_contents
- ³³ <http://www.hrw.org/en/reports/2005/01/24/blood-sweat-and-fear>
- ³⁴ Bernhardt and McGrath, [Trends in Wage and Hour Enforcement](#).
- ³⁵ National State Attorney General's Program, [Enforcement of State Wage and Hour Laws: A Survey of State Regulators](#) (Columbia Law School, April 2011), Table 1, 44ff.
- ³⁶ In March 2011, a bill that would have required employers to keep signed documentation to show wages and deductions pass the Iowa Senate but died in the House. The chair of the House committee claimed the bill "would create additional regulatory burdens upon good-acting businesses." Jason Clayworth, ["Iowa's anti wage-theft bill hits a snag,"](#) *Des Moines Register* (March 23, 2011).
- ³⁷ Schiller and DeCarlo, [Investigating Wage Theft](#), 5-7.
- ³⁸ See Jens Manuel Krogstad, "Growing number of Latino workers report they aren't paid wages," *Des Moines Register* (March 19, 2011), A1; Adam Belz, "Wage Thefts protested at Forum," *Des Moines Register* (October 24, 2010), B1; Iowa Misclassification Task Force, [Report to Governor Culver](#), 7
- ³⁹ Annette Bernhardt, "The Role of Labor Market Regulation in Rebuilding Economic Opportunity in the U.S." *Work and Occupations* 39:4 (2014), 354-375.
- ⁴⁰ National Employment Law Project, "City Minimum Wage Laws: Recent Trends and Economic Evidence," May, 2015.
- ⁴¹ "US lags behind world in temp worker protections", ProPublica, February 24, 2014, <http://www.propublica.org/article/us-lags-behind-world-in-temp-worker-protections>
- ⁴² ABA International Labor & Employment Law Committee, February 2012
http://www.americanbar.org/newsletter/groups/labor_law/int_newsletter/ilel_news20121/february2012/1202_aball_int_global.html
- ⁴³ <https://www.illinois.gov/idol/Laws-Rules/FLS/Pages/changes-to-dtlsa.aspx>
- ⁴⁴ Clark Kaufman, "Disabled workers paid cents per hour at state-run homes," *Des Moines Register* (December 28, 2009), B1. Though civil and criminal penalties for wage theft are available under both state and federal laws, they are rarely imposed. The FLSA permits the DOL to request civil penalties of up to \$1,100 for each violation and/or criminal sanctions of up to two years in prison for willful violations of the FLSA. IWD can request penalties of up to \$500/pay period for violations of either Chapter 91D (minimum wage) or Chapter 91A (wage payment). It is extremely unusual for either agency to pursue penalties, though that trend may be changing, at least at the US DOL.
- ⁴⁵ Under the simplified criteria used in what is known as the "ABC test," service performed by an individual shall be deemed to be employment unless and until it is shown that: A) Such individual has been and will continue to be free from control or direction over the performance of such services, both under his contract of service and in fact; and B) Such service is either outside the usual course of the business for which such service is performed or that such service is performed outside of all the places of business of the enterprise for

which such service is performed; and C) Such individual is customarily engaged in an independently established trade, occupation, profession or business.” Judson and Francisco-McGuire, [Where Theft is Legal](#), p 19.

⁴⁶ See Senate File 270, 2015 Iowa Legislature.

⁴⁷ <http://www.desmoinesregister.com/story/news/politics/2015/01/27/iowa-wage-theft-senate/22430863/>