

NON-STANDARD EMPLOYMENT: CHALLENGES AND SOLUTIONS¹

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Abstract

An important characteristic of contemporary labour markets around the world is the high and growing incidence of non-standard employment (NSE). Non-standard employment has important implications for workers, enterprises, labour markets and economies and societies at large, which are partly understood, but have rarely been addressed. In November 2016, the ILO published a report, *Non-standard employment around the world: Understanding challenges, shaping prospects*, with the objective of improving understanding on trends and consequences of the growth of non-standard employment as well as providing policy recommendations for addressing challenges. This work summarizes the main findings of this report and is part of the ILO Director-General's initiative on the Future of Work.

Una característica importante de los mercados laborales contemporáneos en todo el mundo es la alta y creciente incidencia del empleo no estándar o atípico. El empleo no estándar tiene implicaciones importantes para los trabajadores, las empresas, los mercados de trabajo, las economías y las sociedades en general, que se entienden en parte, pero rara vez se han abordado. En noviembre de 2016, la OIT publicó un informe titulado "Empleo no normalizado en todo el mundo: Entender los desafíos, dar forma a las perspectivas", con el objetivo de mejorar la comprensión de las tendencias y consecuencias del crecimiento del empleo no normalizado, así como para proporcionar recomendaciones de políticas públicas para hacer frente a los nuevos retos. Este trabajo resume las principales conclusiones de este informe y forma parte de la iniciativa del Director General de la OIT sobre el futuro del trabajo.

Título: Formas atípicas de empleo: retos y soluciones

Keywords: non-standard employment, temporary employment, part-time employment, self-employment, decent work.

Palabras clave: empleo no estándar o atípico, trabajo temporal, trabajo a tiempo parcial, trabajo autónomo, trabajo decente.

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¹ This article summarizes the main findings of the 2016 ILO report, *Non-standard employment around the world: Understanding challenges, shaping prospects*.

Summary

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1. Introduction

An important characteristic of contemporary labour markets around the world is the high and growing incidence of non-standard employment (NSE). Non-standard employment has important implications for workers, enterprises, labour markets and economies and societies at large, which are partly understood, but have rarely been addressed. In November 2016, the ILO published a report, *Non-standard employment around the world: Understanding challenges, shaping prospects*, with the objective of improving understanding on trends and consequences of the growth of non-standard employment as well as providing policy recommendations for addressing challenges. This work is part of the ILO Director-General's initiative on the Future of Work.

While it is difficult to predict what jobs will exist in the future, what we know is true is that (1) we will continue to depend on work for our overall well-being and (2) because of this dependence it is important to ensure that regardless of what contractual arrangement appears, evolves or grows, that it be designed to ensure decent work. This short paper summarizes the main findings and policy recommendations of the report with a view to informing debates on the future, but also motivating governments and workers' and employers' organizations to take action in the present.

NSE comprises four different employment arrangements that deviate from the "standard employment relationship", understood as work that is full time, indefinite, as well as part of a subordinate relationship between an employee and an employer. It includes temporary work, including fixed-term contracts and casual work; part-time employment and on-call work; temporary agency work and other employment relationships involving multiple parties; and disguised employment relationships and dependent self-employment.

The report acknowledges that work can have diverse forms, and that many of these forms respond to the legitimate needs of business and workers and should thus be accommodated. However, it also argues that regardless of the contractual arrangement, all types of work should provide a minimum amount of protection to workers, as well as to businesses, in order to ensure fair competition. Hence, those forms of work that do not currently provide these protections need to be addressed so that they do. The report recommends four broad areas policy areas for doing so.

2. What we know about the evolution of non-standard employment

The growth in NSE is the outcome of multiple forces. It reflects changes in the world of work brought about by globalization, including the growth of the service sector, the cost

pressures emanating from the development of global supply chains, the role of technology in facilitating these changes; demographic and social changes, such as the increased role of women in the world's labour force; and regulatory changes. At times, laws have encouraged the use of NSE –either purposefully or unwittingly– by creating incentives for its use by enterprises, such as when certain contractual forms are exempt or require a reduced social security contribution from employers. In other cases, there are gaps or grey areas in the law that have provided fertile ground for the development of non-standard work arrangements. Some of these gaps have come about as the result of a decline of collective bargaining in countries where collective agreements had previously been the dominant form of regulation. Below is a summary of the use of different forms of non-standard employment across the world.

2.1. Temporary employment

Temporary employment has always existed and serves important purposes, such as allowing businesses to hire someone to replace a temporarily absent worker, for testing out a new hire, or for giving firms flexibility to respond to fluctuations in demand. Temporary employment is widespread in seasonal industries such as construction, services, and agriculture. In over 150 countries, the average use of temporary employees in registered private sector firms is 11 percent, with about one-third of countries around this mean. However, there are wide divergences in the use of temporary employment, ranging from under 5 percent in Jordan, Latvia, Norway and Sierra Leone to over 25 percent in Mongolia, Peru and Spain, mainly reflecting how fixed-term contracts are regulated. There are also important divergences in its use by firms: more than half of enterprises do not use temporary labour, whereas around 7 percent use it intensively (more than half of their workforce is on temporary contracts). Casual employment, a specific form of temporary employment that includes day labour, is a prominent feature of labour markets in developing countries. In Bangladesh and India, nearly two-thirds of wage employment is casual; in Mali and Zimbabwe, one in three employees is casual. In Australia, where casual employment is a specific employment category, one out of four employees is casual. Casual employment has seen an expansion in the past decade in industrialized countries, with the development of the on-demand or gig economy.

2.2. Part-time employment and on-call work

Part-time has risen in many parts of the world over the past decades, as it can be an important means for balancing work and family responsibilities. Indeed, while women make up less than 40 percent of total wage employment globally, they represent 57 percent of part-time employees. In Argentina, Germany, India, Japan, the Netherlands, Niger and Switzerland, there is more than a 25 percentage point difference in women's

participation as part-time employees when compared to men. Part-time employment has also diversified to include other forms such as “on-call” work, including “zero-hours” contracts (with no guaranteed minimum hours). In the United Kingdom, 2.5 percent of employees were on zero-hours contracts at the end of 2015. Approximately 10 percent of the workforce in the United States have irregular and on-call work schedules, with the lowest-income workers the most affected.

2.3. Temporary agency work and other multiparty employment relationship

In countries with available data, temporary agency work spans from 1 to 6 percent of wage employment, with the largest markets found in United States, China, Europe and Japan. Asian countries have witnessed the growth of various forms of dispatched, agency, subcontracted or outsourced work throughout the past decades. In Indian manufacturing, contract labour reached 35 percent in 2011-2012, up from negligible levels in the early 1970s.

2.4. Disguised employment and dependent self-employment

Data on disguised or sham employment relationships and dependent self-employment is harder to come but some information can be gleaned from labour force surveys. For example, in the Slovak Republic, in 2015, 4 percent of workers were ‘false self-employed’. In Australia, in 2014, nearly 2 percent of employees were disguised as self-employed. In Chile, in 2011, 12-17 percent of subcontracting firms were made up entirely or partly of ex-employees of the lead firms, suggesting the possibility of disguised employment relationships.

3. Non-standard employment poses risks for workers, firms, labour markets and society

NSE, particularly when it is not voluntary, can increase workers’ insecurities in different areas. While insecurities can also be present in standard employment relationships, they are less prevalent than in the different forms of NSE. The report analysed seven potential areas of work insecurity; some of the key findings include:

- *Employment security.* Transitions from temporary to permanent employment range from a yearly rate of under 10 percent to around 50 percent, in countries with available data. The greater the incidence of temporary employment in the country, the greater the likelihood that workers will transit between NSE and unemployment, with the possibility of transitioning to better jobs less likely.

- *Earnings.* Workers in NSE face substantial wage penalties relative to comparable standard workers. For temporary employment, penalties can reach up to 30 percent. Part-time employment is associated with wage penalties in Europe and the United States, but carries wage premiums for higher-skilled workers in Latin America.
- *Hours.* Workers in on-call employment and casual arrangements typically have limited control over when they work, with implications for work-life balance, but also income security, given that pay is uncertain. Variable schedules also makes it difficult to take on a second job.
- *Occupational safety and health (OSH).* There are significant OSH risks due to a combination of poor induction, training and supervision, communication breakdowns (especially in multi-party employment arrangements) and fractured or disputed legal obligations. Injury rates are higher among workers in NSE.
- *Social security.* Workers in NSE are sometimes excluded by law from social security coverage. Even when they are formally protected, lack of continuity in employment and short working hours may result in inadequate coverage or limited benefits during unemployment and retirement.
- *Training.* Workers in NSE are less likely to receive on-the-job training, which can have negative repercussions on career development, especially for young workers.
- *Representation and other fundamental rights at work.* Workers in NSE may lack access to freedom of association and collective bargaining rights either for legal reasons or because of their more tenuous attachment to the workplace. They may also face other violations of their fundamental rights at work, including discrimination and forced labour.

There are also important and under-appreciated consequences for firms, particularly for those firms that used NSE as a central organizational practice. The high levels of turnover that come with this practice require that human resource strategies shift from training and development of in-house employees to identifying the sets of skills that the firm needs to buy from the market and finding ways to procure them. An over-reliance on NSE had the potential to lead to a gradual erosion of firm-specific skills in the organization, which could limit its ability to respond to changing market demand.

While there may be some short-term cost and flexibility gains for firms from using NSE, in the long run, these may be outweighed by longer-term productivity losses. There is evidence that firms that use NSE more, tend to underinvest in training, both for

temporary and permanent employees, as well as in productivity-enhancing technologies and innovation. This can have negative consequences for overall productivity growth. Widespread use of NSE can also reinforce labour market segmentation and lead to greater volatility in employment with consequences for economic stability. Research shows that for temporary and on-call workers, it is more difficult to get access to credit and housing, leading to delays in starting a family.

4. Addressing decent work deficits in non-standard employment

A concerted policy effort is needed to address the decent work deficits that are associated with non-standard employment. The report advances four main areas of policies to address decent work deficits drawing upon guidance from international labour standards and current practices observed at the national level.

4.1. Plugging regulatory gaps

Non-standard jobs can offer greater options for employers in how they organize work. But when there are distinctions between the entitlements that accrue to one contractual form as opposed to another, it creates incentives for employers to use these arrangements as a way to reduce labour costs, rather than as a legitimate response to specific demands in production. There is thus a need to implement measure that narrow the differences between ‘standard’ and ‘non-standard’ jobs. An important step for doing this is instituting legislative measures that ensure equal treatment for workers, so that workers in non-standard employment have the same entitlements and benefits as workers in standard employment arrangement, even if pro-rata.

The report also recommends establishing minimum guaranteed hours and limiting the variability of working schedules, which are important safeguards for improving income security for part-time, on-call and casual workers, as well as ensuring that the flexibility of the contracts benefits workers as well as enterprises. Legislation also needs to address employment misclassification, as the employment relationship is the source of most labour protections, and disguised employment relations undermine fair competition and harm the sustainability of social security systems. In addition, there is a need to restrict some uses of NSE, for example, by prohibiting the long-term use of temporary workers for permanent tasks, or by not allowing temporary agency workers to replace workers during strikes.

Another legislative recommendation is to assign obligations and responsibilities in multi-party employment arrangements, to ensure that employers using agency or ‘leased’ workers are held responsible for safety and health and are also liable for

payment of wages and social security benefits if the contracting firm becomes insolvent. Efforts are needed to ensure that all workers, regardless of their contractual arrangement, have access to freedom of association and collective bargaining rights. Improving enforcement is also essential.

4.2. Strengthening collective bargaining

Collective bargaining can take into account particular circumstances of the sector or enterprise and is thus well-suited to help lessen insecurities in NSE. However, effort is needed to build the capacity of unions in this regard, including through the organization and representation of workers in NSE. Where it exists, the extension of collective agreements to all workers in a sector or occupational category is a useful tool for reducing inequalities for workers in NSE as well as for ensuring a level playing field among enterprises. Alliances between unions and other organizations can be part of collective responses to issues of concern to non-standard and standard workers alike.

4.3. Strengthening social protection

The report proposes a two-pronged approach to strengthen social protection consisting of: (1) adapting social security systems to increase the coverage of workers in non-standard jobs, by lowering thresholds on minimum hours, earnings or duration of employment, making systems more flexible with regards to contributions required to qualify for benefits, allowing for interruptions in contributions, and enhancing the portability of benefits between different social security systems and employment statuses, and (2) complementing social security with universal policies guaranteeing a basic level of social protection.

4.4. Instituting employment and social policies to manage social risks and accommodate transitions

A range of policies is needed to help workers, non-standard and standard alike, and to improve the operation of labour markets. This includes macroeconomic policies to support full, productive and freely chosen employment, including through public employment programs; adapting unemployment insurance schemes to cover a broader range of contingencies such as reduced working hours during periods of economic recession, as well as temporary absences of workers who are undergoing training. Parental and other care leave policies should be instituted and strengthened and workers should have the ability to transfer from full-time to part-time work and vice versa. Finally, the provision of care facilities can help workers to reconcile work and family responsibilities.

5. Conclusion

While the future of work will undoubtedly bring new changes, the dependence on work for one's livelihood and the effect of work on a person's overall well-being will not change. For this reason, it is imperative that we respond to the ongoing transformations in the world of work, as no contractual form is immune to these ongoing transformations. Laws and policies need to be designed, implemented and enforced if we are to ensure decent work, regardless of the work arrangement.