



Informality and non-standard forms of employment

International Labour Organization

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1. Introduction

Today, more than 60 per cent of the world's employed population and 56 per cent in G20 economies are in informal employment. Informality has increased over recent decades in a number of countries despite economic progress. Informality has multiple adverse consequences for individuals, firms and societies. Individuals who work informally are exposed to pervasive decent work deficits. Enterprises that operate informally are a source of unfair competition for those enterprises that comply with fiscal and labour laws. In addition, they face high barriers in terms of access to capital, financial resources, public infrastructures and markets with negative implications for productivity and business sustainability. Finally, for governments and societies, informality means reduced government revenues. This, in turn, limits the scope of government action and weakens the rule of law, undermining social cohesion and inclusive development.

Another important labour market trend in the recent years has been the growth and the diversification of non-standard forms of employment. These have gained particular traction in the large majority of the G20 countries and will undoubtedly play a major role in the future of work. As labour and social protection systems of most countries are mainly built around the concept of the standard employment relationship, the rise of non-standard forms of employment increases the chances that workers employed this way are not covered, or not covered fully, by these systems. In other words, workers in some non-standard forms of employment may be particularly exposed to the risk of informality.

This paper provides a legal and a statistical overview of the concepts of informality and non-standard employment, and how the two concepts overlap in part. It also offers a comparative review of related trends, drivers and consequences in G20 countries, with attention to their gender dimensions. It presents some examples of policy measures adopted by G20 countries to address work deficits in informal and non-standard forms of employment and concludes with a few policy recommendations.

2. Informality

2.1 Concepts and measurements

The ILO Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204) describes the “informal economy” as referring to all economic activities by workers and economic units that are – in law or in practice – not covered or insufficiently covered by formal arrangements. The informal economy does not cover illicit activities.

The Recommendation refers to the guidelines concerning the statistical definition of informal employment adopted by the 17th International Conference of Labour Statisticians in 2003 and their subsequent updates. These guidelines are applied by many emerging and developing economies to measure informal employment, while developed economies typically do not measure such employment.

According to these guidelines, employees are considered to have informal jobs if their employment relationship is, in law or in practice, not subject to national labour legislation, income taxation, social protection or entitlement to certain employment benefits (advance notice of dismissal, severance pay, paid annual or sick leave, etc.). The underpinning reasons may be the non-declaration of the jobs or the employees; casual jobs or jobs of a short duration; jobs with hours of work or wages below a specified threshold (e.g. for social security contributions); or lack of application of law and regulation in practice. Employers and own-account worker are considered to be informal when their economic units belong to the informal sector. The informal sector is a subset of household unincorporated enterprises (not constituted

as separate legal entities independently of their owners)¹ that produce for sale in the market, even if partly, and that do not have a complete set of accounts and/or are not registered under national legislation. Finally, all contributing family members are considered as informally employed. Countries use different operational criteria among those mentioned above to measure informal employment according to national context and circumstances.

To facilitate international comparability, notably in the context of the Sustainable Development Goals (SDGs),² and overcome previous limitations associated with the use of different measures by countries, the ILO recently applied a similar set of criteria, when processing micro-data, to determine informal employment³ and employment in the informal sector⁴ as a person's main job. As a result, statistics are comparable across countries and regions but ILO country estimates might differ from national ones when they exist. The estimates presented here follow this harmonized method, and include countries where informal employment is usually not estimated.

2.2 Latest trends in G20 countries

When including agriculture, 55.7 per cent of all workers in G20 economies are in informal employment, which is slightly below the world estimate of 61.2 per cent (ILO, forthcoming). The share of informal employment in total employment ranges from less than 20 per cent of total employment in developed G20 economies to more than 85 per cent in India and Indonesia (figure 1, panel A). Those proportions are lower when considering only employees (panels D). The proportion of own-account and employers who are in informal employment is higher than those of employees in all groups of countries (panel E). In all regions, employment in the informal sector is the largest of the three components of informal employment. The situation differs however when considering employees in informal employment. The proportion of employees informally employed in fully formal enterprises is as high as or greater than the proportion of employees informally employed in informal sector enterprises in a number of G20 countries. Informal wage employment in formal enterprises accounts for more than half of total wage informal employment in India, Brazil, Mexico, Italy, France, Japan and in EU countries on average.

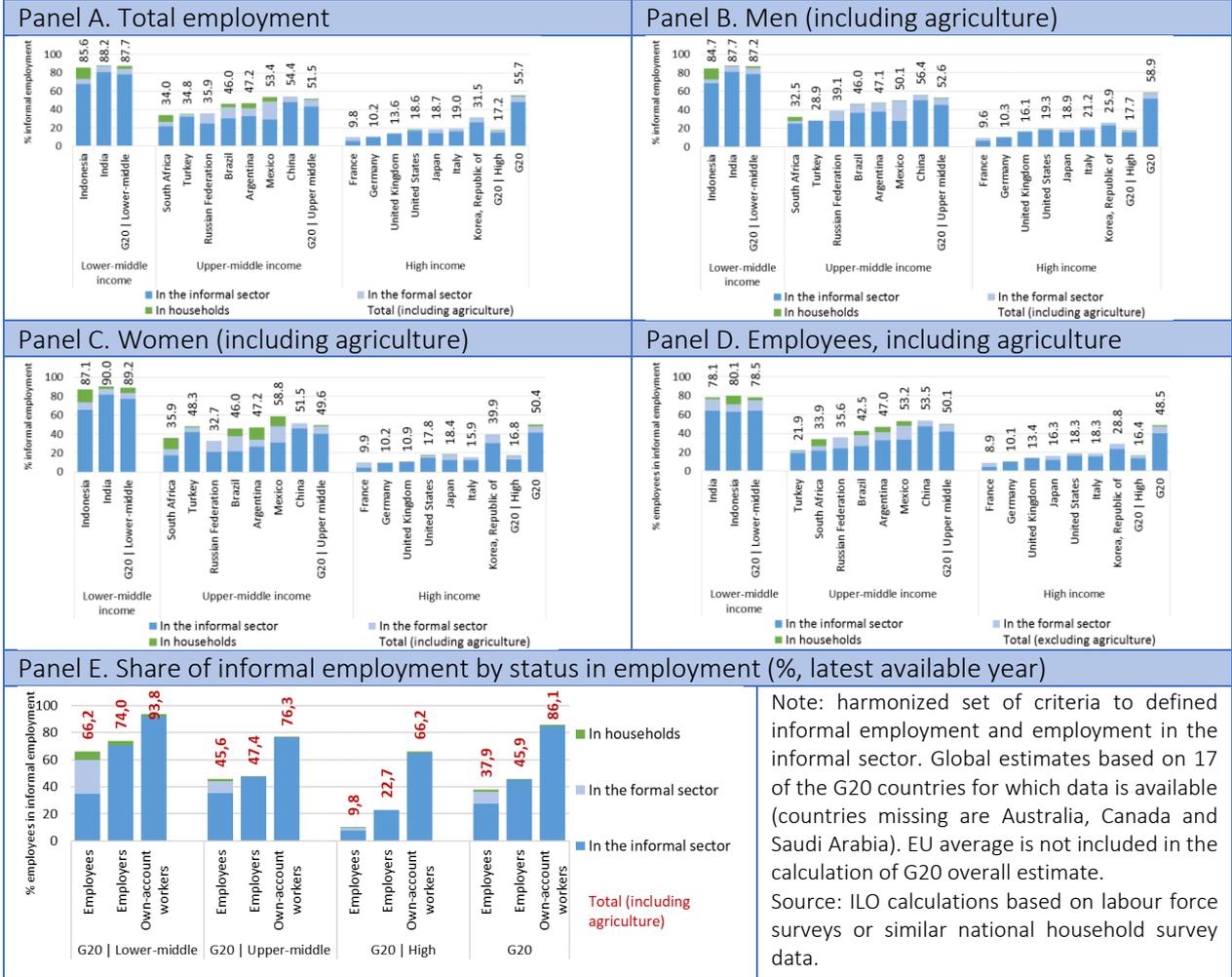
¹ ILO, Resolution concerning the measurement of employment in the informal sector, Fifteenth International Conference of Labour Statisticians (ICLS), Geneva, 1993.

² In particular to monitor indicator SDG 8.3.1 on the proportion of informal employment in non-agriculture employment, by sex.

³ An employee is considered as in informal employment if his/her employer does not contribute to social security on his/her behalf or, in case of missing answer, if he/she does not benefit from annual paid leave and paid sick leave; employers and own-account workers are in informal employment if their economic activity is in the informal sector; all contributing family members are considered as informally employed.

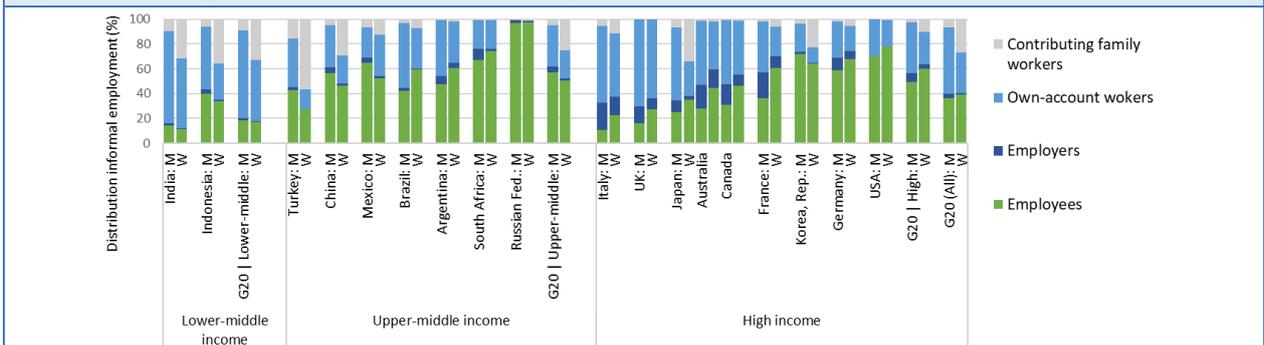
⁴ The informal sector is composed of all non-incorporated private enterprises without a formal bookkeeping system or not registered to national relevant authorities.

Figure 1. Share of informal employment in total employment (% , latest available year)



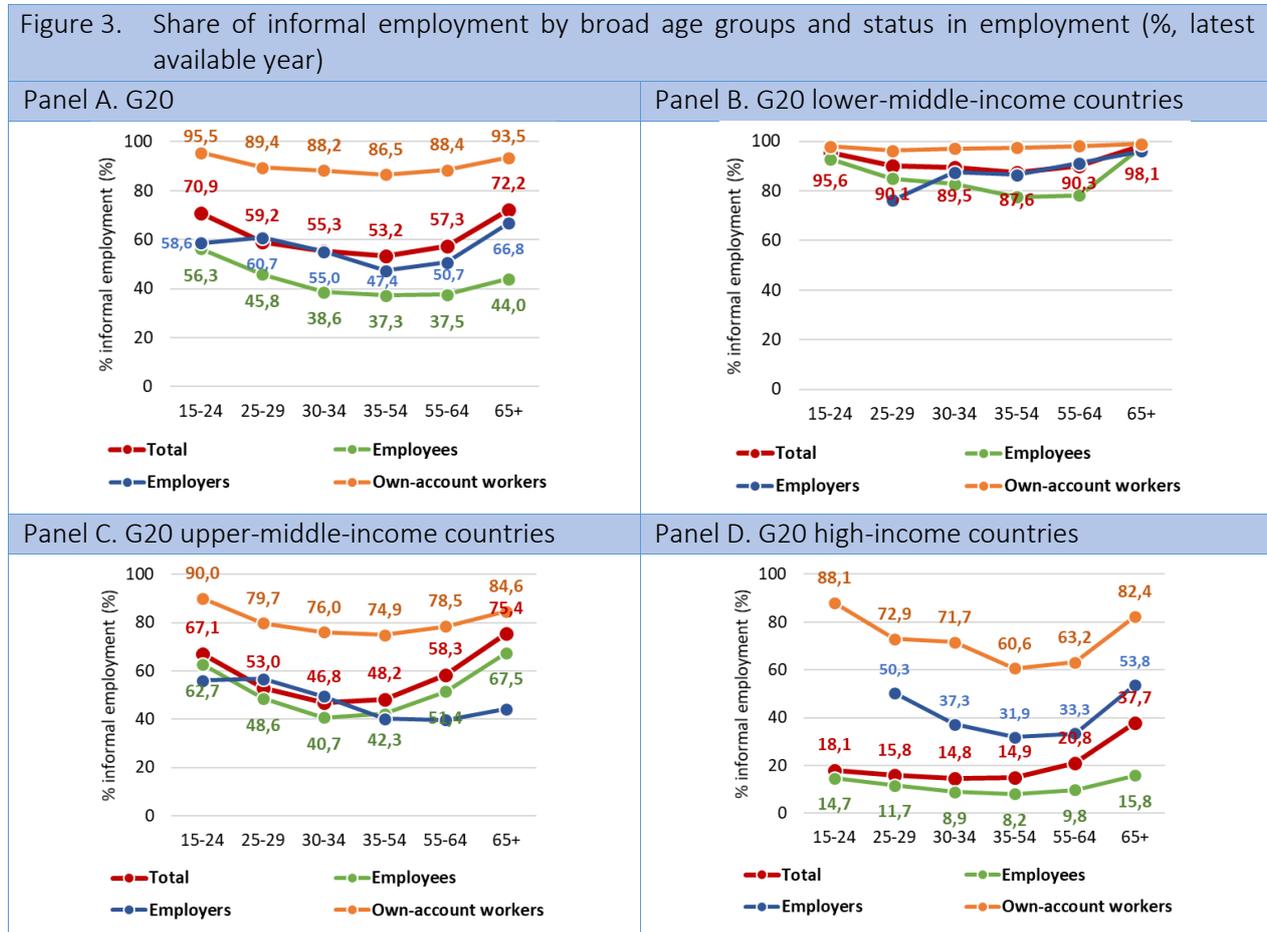
Globally, informal employment is a greater source of employment for men (63.0 per cent) than for women (58.1 per cent). This holds true in G20 countries where 58.9 per cent of men are in informal employment compared to 50.4 per cent of women. However, women are more exposed than men to informal employment in lower-middle income groups of countries (figure 1, panels B and C and figure 2) and are more often found in the most vulnerable situations, for instance as contributing family workers (usually unpaid), domestic workers or home-based workers. In G20 countries, 26.6 per cent of all women in informal employment are contributing family workers compared to 6.9 per cent of men. The situation differs in high-income G20 countries where the vast majority of women holding informal jobs are employees but nearly half of them (47.8 per cent) are either in temporary or part-time employment compared to 28 per cent among men.

Figure 2. The gender dimension of informality



Source: ILO calculations based on labour force survey or similar national household survey data.

In G20 countries, the relationship between formality and age shows a U-shaped profile: informality rates are very high in the beginning of the working life (70.9 per cent); these rates decrease with age to reach a minimum of 33.2 per cent among workers aged 35-54 years old and then start to increase again. Rates after 65 are as high as for youth (figure 3, panel A). This U shape varies depending on employment status and income groups of countries.



Note: harmonized set of criteria to defined informal employment and employment in the informal sector. Global estimates based on 17 of the G20 countries for which data is available (countries missing are Australia, Canada and Saudi Arabia). EU average is not included in the calculation of G20 overall estimate.

Source: ILO calculations based on labour force surveys or similar national household survey data.

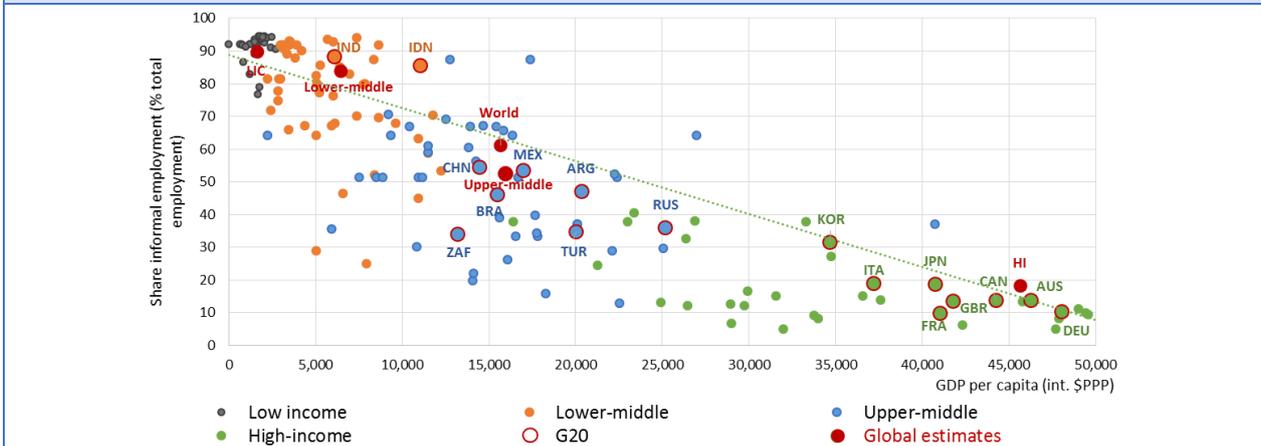
Finally, evidence is lacking on the size of informal employment of those engaged in global supply chains. While these chains have contributed to economic growth, job creation, poverty reduction and entrepreneurship, the conditions under which they have contributed to reduce informality are not well known. The situation in term of informality and decent work deficits is related, among other factors, to the position of the firms or operator in the chain. The lower tiers of global supply chains include a broad range of workers and economic units, including home-based workers and sub-contractors that are often micro and small enterprises. Most of them operate in the informal economy and this is the segment of the global supply chains where the most serious decent work deficits can be observed, including non-compliance with fundamental principles and right at work.

2.3 Some causes of informality

Growth is a very important driver of formalization. Indeed, sustained economic growth results in more predictable labour markets, thus favouring an increase in long-term contracts. In this context, formalization becomes more feasible (Maurizio and Vázquez, forthcoming). Nevertheless, growth will not by itself solve the challenge of mass informal employment, as comparative data shows that countries with similar level of

economic development (measured by GDP per capita) are presenting very different levels of informality (figure 4). The problem of mass informality is rooted in the inability of growth patterns to create sufficient formal jobs to absorb all those who want to work (either new entrants or those trapped in the informal economy). Structural transformation leading to reducing informal non-wage earners and increasing formal wage earners, and to up-scaling economic units and increasing their productivity, are crucial conditions for transition from the informal to the formal economy.

Figure 4. Share of informal employment in total employment and GDP per capita (latest available year)



Note: The coefficient of determination $R^2=0.57$ worldwide.

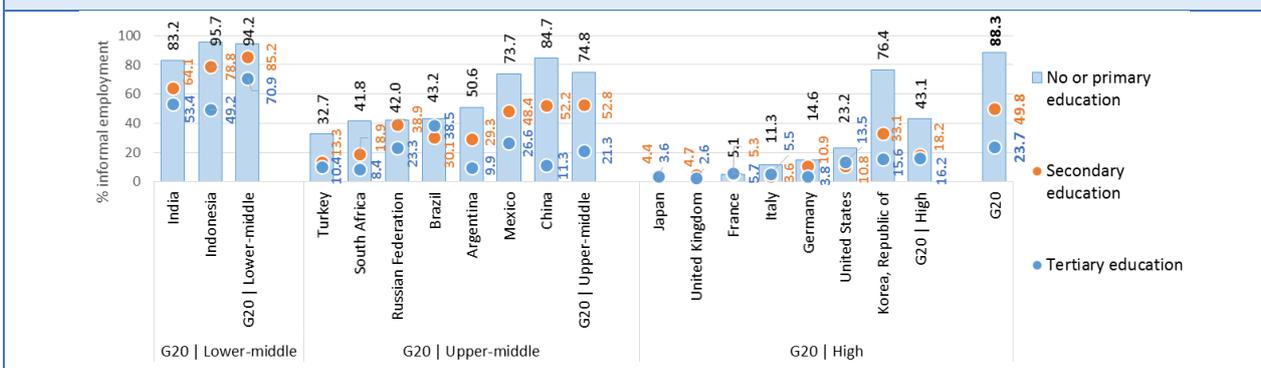
Source: ILO harmonized data on the share of informal employment in total employment and World Development Indicators 2017 for GDP per capita.

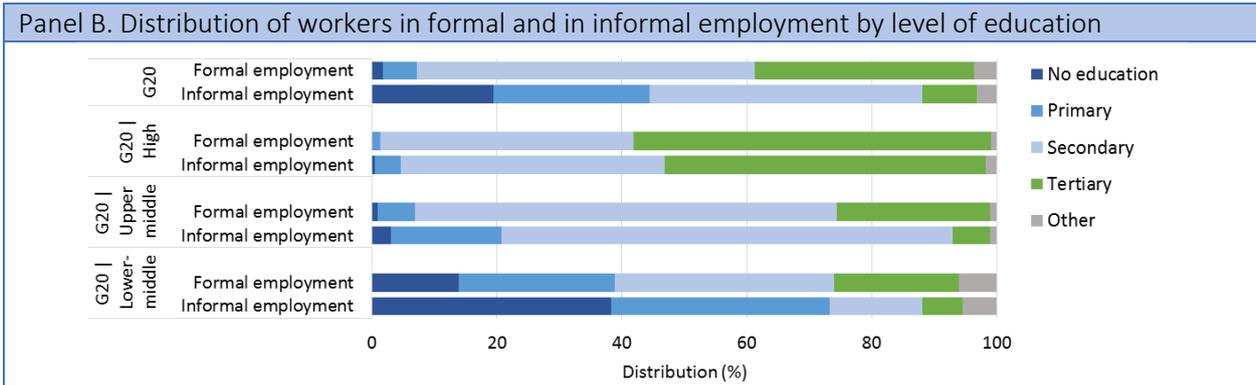
Many other drivers of informality within the economic and institutional environment exist such as an inadequate regulatory framework, a weak enforcement system, a lack of transparency and accountability of public institutions, and a low legal social security coverage. But, in addition to these drivers, some personal characteristics can make it difficult for workers to access formal employment. Having a low level of education, being discriminated against because of gender, age, religion or ethnicity, having low productivity or being in poverty increases the probability of being in the informal economy (some of these features being at the same time a factor of informality and exacerbated by informality). An illustration is provided below regarding education and poverty.

While education is no guarantee of access to formal and more productive employment, it is, nonetheless, an important factor. Global and regional estimates clearly highlight the link between the increase in workers' level of education and the decrease in the share of informal employment everywhere and for all statuses in employment (ILO, forthcoming). This link in the G20 countries is illustrated in figure 5, panel A.

Figure 5. Informal employment and level of education (% , latest available year)

Panel A. Share of informal employment by level of education



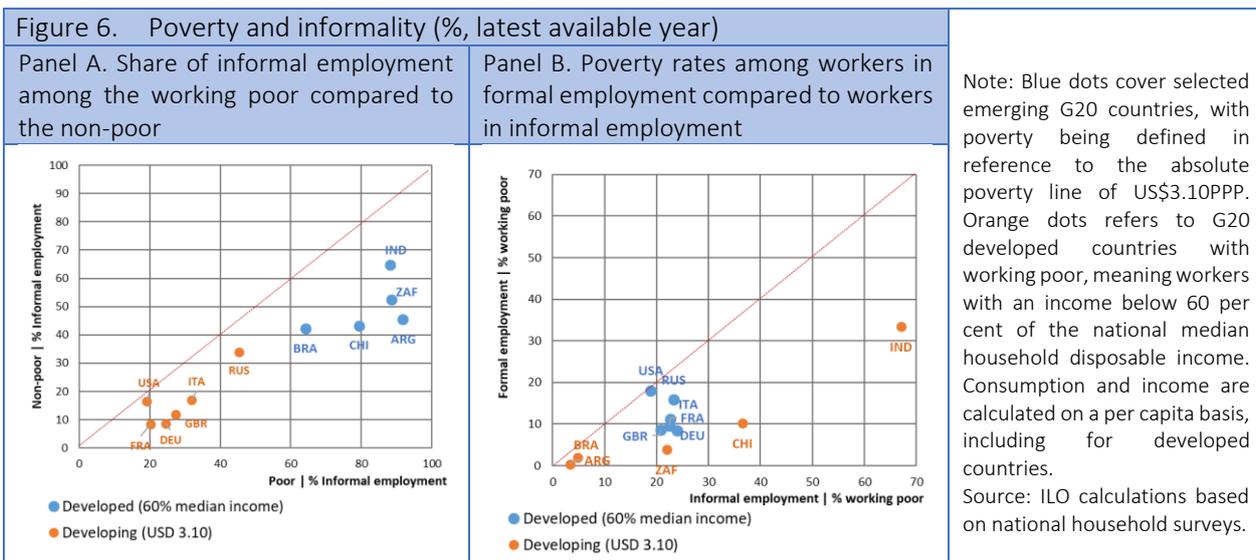


Note: harmonized set of criteria to defined informal employment and employment in the informal sector. Global estimates based on 17 of the G20 countries for which data is available (countries missing are Australia, Canada and Saudi Arabia). EU average is not included in the calculation of G20 overall estimate.

Source: ILO calculations based on labour force survey or similar national household survey data.

Another way to look at education and informality is to compare the distribution of workers in informal employment to the distribution of workers in formal employment by level of education (figure 5, panel B). Nearly 45 per cent of population in informal employment in the G20 has either no education or at primary level. The lack of education among workers in informal employment is critical in lower-middle income G20 countries, with nearly three quarters of workers in informal employment with primary education as the highest educational level.

For the few G20 countries with available data, there is a positive relation between poverty and informality. The poor face higher rates of informal employment (figure 6, panel A) and poverty rates are higher among workers in informal employment compared to workers in formal employment (figure 6, panel B), either because they earn lower incomes or because, despite decent labour incomes, they share their income with a high number of economic dependents within the household (ILO, 2016a). Poverty has important consequences which include the limited capacity of individuals or low-profit firms to adopt a long-term perspective rather than short term coping strategies, to raise their productivity and to afford the cost of formalisation.



3. Non-standard forms of employment (NSFE) and informality

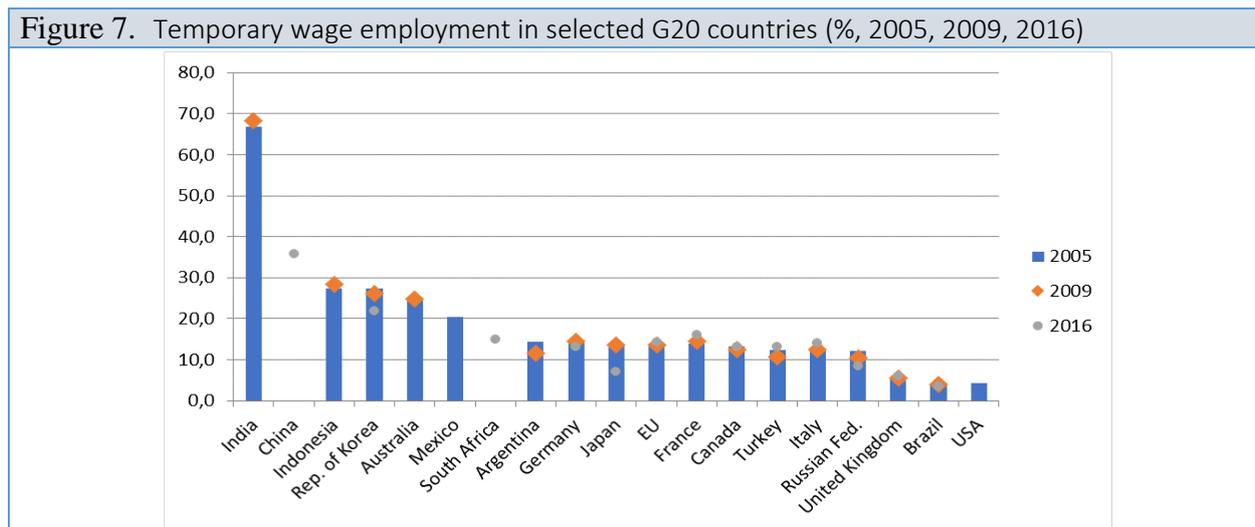
Over the past several decades, in many parts of the world non-standard forms of employment have grown in magnitude, and in form. The ILO distinguishes between four types of non-standard employment (ILO,

2015a): (1) temporary employment; (2) part-time and on-call work; (3) temporary agency work (TAW) and other forms of employment involving multiple parties; and (4) disguised employment relationships and dependent self-employment. As illustrated below, workers in non-standard forms of employment tend to be more frequently in informal employment than those in standard-employment.

3.1 Temporary employment

Temporary employment is one of the most significant forms of non-standard employment. In developed countries, temporary employment often consists of fixed-term contracts and project-based work, and many of these contractual arrangements are written. Yet, temporary workers may not qualify for social security and other employment entitlements and therefore be in informal employment, according to the 17th ICLS guidelines mentioned above. In developing countries, temporary employment is primarily casual employment. Casual workers usually have weaker legal and social protections than standard workers or temporary workers in fixed-term contracts, and sometimes fall outside the scope of labour regulation altogether. Moreover, due to the very short nature of the employment relationship, existing protections are difficult to enforce. Thus, casual employment is often informal.

In G20 countries, temporary employment varies substantially and has generally either increased or remained stable in the past decade (figure 7). The variations in prevalence of temporary employment reflect the level of economic development (given the important association between agrarian production and casual employment); economic conditions (with economic crises affecting the use of temporary employment); as well as the different contractual forms that are permitted within specific jurisdictions.

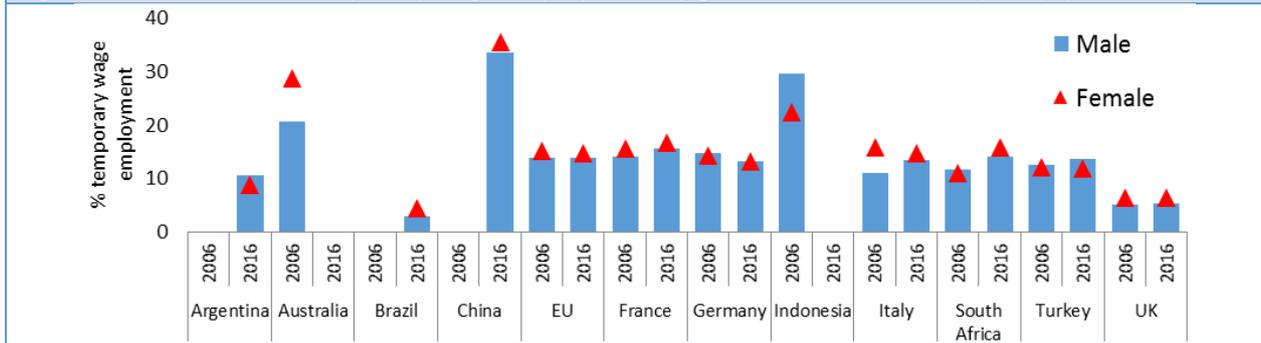


Source: computations of ILO staff based on data from various sources (OECD STAT, Eurostat, national household surveys).

Women are often over-represented in temporary jobs, though the situation varies substantially across countries, and typically reflects the occupations in which women are most prevalent. In most of the G20 countries, women have a higher incidence in temporary employment when compared with men (figure 8). Explanations for the higher incidence of women in temporary work include the reforms to liberalize the use of fixed-term contracts in order to stimulate female labour force participation; cultural expectations; and women' lower bargaining power, making them more likely to accept more insecure jobs (Rubery and Grimshaw, 2009; Garibaldi and Taddei, 2013).

Compared to standard (open-ended, full-time) employment, non-standard forms of employment are significantly more likely to be informal, for both women and men, with temporary employment particularly stark in this respect. In the G20 countries (figure 9) around 14 per cent of all permanent jobs are informal, compared to close to 60 per cent of all temporary jobs. This means that the instability that arises from temporary jobs is aggravated by poorer labour conditions associated with informal employment.

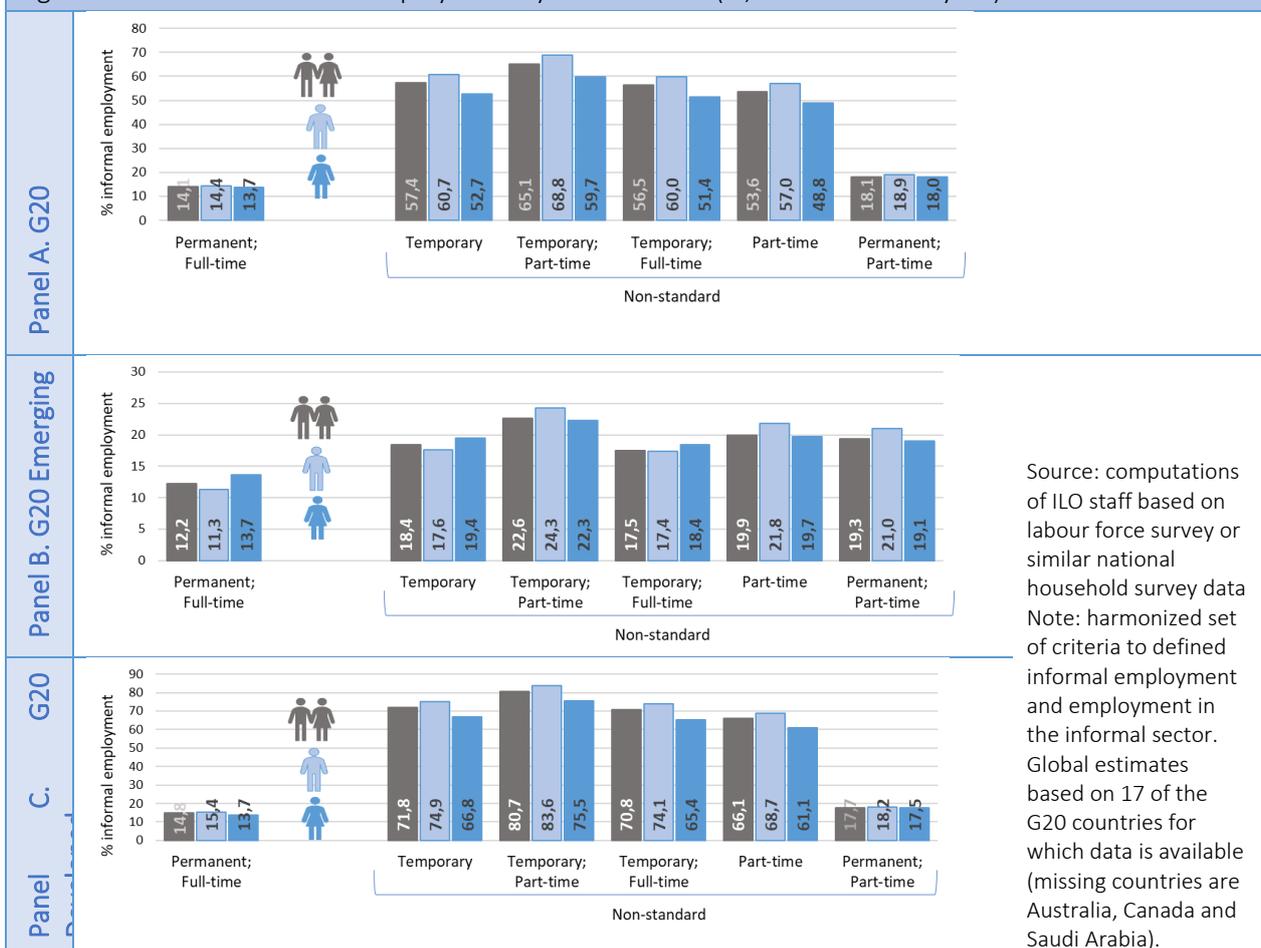
Figure 8. Incidence of temporary wage employment by gender; latest available year (%)



Source: computations of ILO staff based on data from various sources (OECD STAT, Eurostat, national household surveys).

Figure 9 also shows that ‘temporary part-time jobs’ feature the highest level of informality, especially among men. While 80 per cent of casual jobs are informal in the emerging countries of the G20 (compared to 17.7 per cent of workers in part-time permanent employment), it is also the case that 22.6 per cent of ‘temporary, part-time’ jobs in developed countries are also informal. Several reasons may explain why the combination of temporary and part-time employment is prone to informality. Workers in these jobs have difficulties in accessing social security protection due to minimum threshold requirements for hours worked or wages earned, or because they lack any contract or the type of contract that includes such protection. In addition, some employers may choose to employ part-time temporary workers, as they may not meet legislated minimum threshold requirements and are thus, at first glance, cheaper to employ. Finally, some may deliberately decide to evade taxation and the application of social and labour laws and regulations. For temporary part-time workers, this affects access to health care as well as other benefits including paid maternity leave, unemployment insurance, or old-age pensions.

Figure 9. Share of informal employment by sex and NSEs (% , latest available year)



Source: computations of ILO staff based on labour force survey or similar national household survey data. Note: harmonized set of criteria to defined informal employment and employment in the informal sector. Global estimates based on 17 of the G20 countries for which data is available (missing countries are Australia, Canada and Saudi Arabia).

3.2 Non-standard forms of employment: drivers and characteristics in terms of earnings and inequality

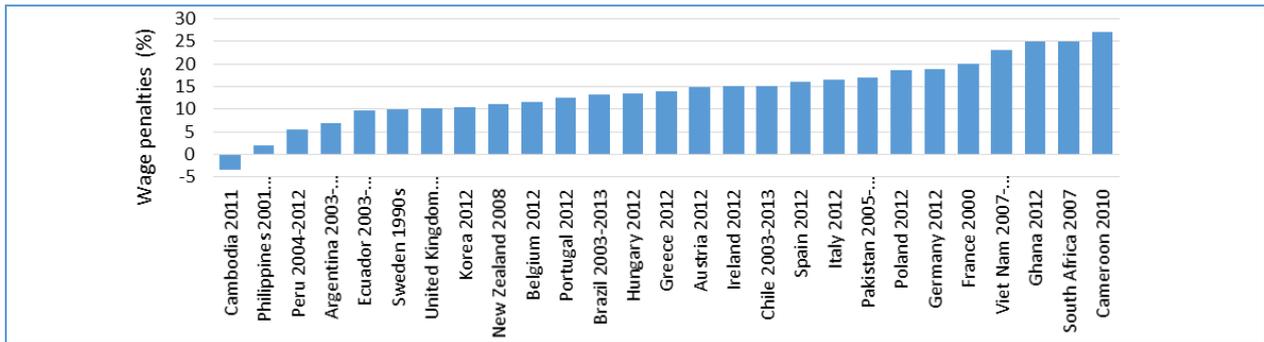
Whether non-standard employment arrangements are used, as well as the extent of their use and their informal nature, depends on several competing factors. Shifts away from agriculture to services will typically result in a decreased use of casual employment arrangements. However, the expansion of the services sectors, particularly retail trade and hotels and tourism, is associated with greater use of part-time employment arrangements and fixed-term contracts. Fixed-term contracts and multi-party employment arrangements, such as temporary agency work or labour brokering, have also become more common in manufacturing, as a result of intensified competition stemming from globalization. The use of non-standard forms of employment is also affected by macroeconomic fluctuations, as temporary workers are often the first to lose their job in a downturn, but new hires, upon recovery, are often temporary, especially when economic uncertainty prevails. In addition to these structural and cyclical factors, the use of non-standard forms of employment is highly influenced by the regulatory environment, including provisions that may place limitations or outright prohibitions on certain forms of employment or, on the contrary, may encourage their use, such as exemptions from social security contributions.

Non-standard forms of employment can provide access to the labour market, including for disadvantaged groups such as youth or migrants, and, in some instances, can provide opportunities for moving to better jobs. In addition, non-standard forms of employment can provide flexibility to both enterprises and workers, especially when part-time work is chosen voluntarily. They can have also a variety of effects on working conditions, including employment security, wages and remuneration, working time, occupational safety and health, access to social security, work organization, work-life balance, and opportunities for training. Whether these effects are positive or negative largely reflects the type of the non-standard form of employment, the reasons that workers have for entering non-standard employment (whether voluntary or involuntary), and the legal framework that regulates non-standard employment arrangements. In general, there is a hierarchy with respect to job quality, with casual workers experiencing greater decent work deficits than workers on fixed-term contracts (ILO, 2016b).

Empirical evidence on wage differences between temporary and permanent workers demonstrates that most temporary workers experience a wage penalty, which can reach up to 30 per cent relative to comparable standard workers (figure 10). Wage differentials for NSFE may also vary across income levels; for example, in Italy, wage penalties for temporary jobs are substantially more pronounced among workers with lower salaries. In developing countries, the salaries of workers with written fixed-term contracts situate somewhere in between salaries of workers with permanent contracts and of workers with no written contracts at all. In contrast, part-timers, especially those who chose to work part-time voluntarily, may sometimes enjoy even better work outcomes, including wages. In Brazil and South Africa (females only), formally employed part-timers experience a wage premium compared with full-time employees. Whenever wage penalties for part-time exist, they are usually smaller than wage penalties for temporary work. Part-time temporary workers tend to be the most penalized group of employees.

Some studies, including those performed for samples with selected G20 countries, find a positive relationship between the number of fixed-term contracts in a country and more unequal wage distributions (Cazes and de Laiglesia, 2015). The effect of higher share of temporary employment also depends on whether the liberalization of temporary employment allowed the creation of more jobs for certain categories of workers. Various wage-setting institutions (minimum wages, collective bargaining) may mitigate the negative effect of the wider use of temporary contracts on inequality by playing an important equalizing role. Stated differently, non-standard employment does not necessarily result in negative outcomes for workers and for societies at large when equal treatment of workers is ensured regardless of the nature of their employment arrangement. In this respect, higher incidence of formality within non-standard forms of employment could be beneficial for ensuring that this is a reality.

Figure 10. Wage penalties for temporary work, selected empirical findings (%)



Note: Findings show wage penalties for being in temporary rather than in permanent work for men only. Partial coefficients from regression analysis, controlling at least for age, education, occupation and sector of activity (other controls vary across studies). Years refer to the years of data on which the analysis was based. “Negative” penalty should be interpreted as a wage premium. Source: ILO, 2016b.

3.3 The evolution of employment as a result of the emergence of new business models in the digitalized world

Digital businesses – what is sometimes referred to as the ‘platform’ or ‘gig’ economy – emerged in the second half of the 2000s with the growth of the internet, which offered new opportunities for the production and delivery of a range of services delivered through on-line marketplaces. Digital labour platforms can take a variety of forms, though it is useful to distinguish between “crowdwork” and “work on-demand via apps”. *Crowdwork* usually refers to activities or services which are performed on-line and independently of the location. Though some of these jobs entail the movement of work from the off-line to the on-line economy, in other instances, they are new tasks that permit the smooth functioning of web-based industries, such as content moderation on social media sites, cataloguing of on-line products, and transcription of you-tube videos. *Work-on-demand* via apps refers to physical activities and services that are performed locally; typical activities include transportation, delivery and home services. In these cases, an app is used to match labour demand and supply within a particular geographic space.

On-line digital businesses mediate work or services delivered between service providers and customers. Thus, there are typically three parties in the relationship: the crowdsourcer (often referred to as the client or requester), the intermediary (the platform) and the workers. While digital labour platforms present major differences, all of them perform three specific functions: (1) matching workers with demand; (2) providing a common set of tools and services that enable the delivery of work in exchange for compensation; and (3) setting governance rules whereby good actors are rewarded and poor behaviour is discouraged (Choudary, 2018). Digital platforms differ in their architecture, with some offering the exchange of highly substitutable or highly standardized work (platforms such as Uber or Crowdfunder), whereas others offer a space for workers to develop more specialized services and build a network (see for example, TopTal). As a result, the architecture of the platform has important implications for workers autonomy, as well as their working conditions and earnings.

While employment through digital labour platforms remains small – estimates range from 0.5 per cent of the labour force in the U.S. to three per cent in Europe (using a broader definition) – it is expected that digital employment will expand in the future, as more jobs – or tasks – move from the off-line to the on-line economy. Yet this growth is not without its challenges, particularly with regard to the regulation and conditions of work. Given the nature of the work on digital labour platforms, the jobs are casual, with work only available when there is a specific job or task needed by a client. Thus, digital labour can be considered as a form of non-standard employment.

With respect to the regulation of labour and working conditions, with few exceptions, platforms are self-regulated. They decide who can access the platform, the terms and conditions under which transactions take place, and in some instances, they arbitrate disputes. Most platforms are not applying labour laws to the work being done, choosing instead to hire workers as independent contractors. While some of these

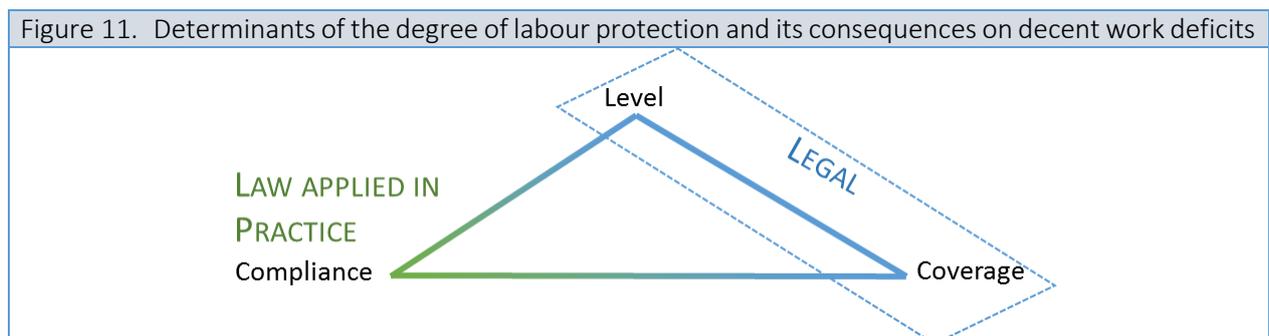
workers may be legitimately self-employed, have registered business that can expand as a result of their association with the platform, and contribute to social security systems, in other instances, workers may be misclassified as self-employed when they should be classified as employees who are entitled to the respective rights and benefits associated with an employment relationship. This is particularly true for those platforms whose services offerings are standardized and highly substitutable and where the workers do not have a say in the price that is being charged. A 2017 European study of the gig economy which surveyed 18,000 gig workers found that the majority considered themselves to be employees, with only 7-13 per cent identifying themselves as self-employed (FEPS, 2017), despite the fact that employee status on digital labour platforms is rare.⁵

Because much work on platforms has been carried out in a digital realm, invisible to policymakers and regulators, the work is in most instances informal, whether taking place in developed, emerging or developing countries. The conditions of work are thus highly individualized, with workers bearing the onus of navigating the myriad of platforms and tasks available in search of work that has decent pay and conditions, while also self-insuring for health care and disability and retirement pensions. For example, in a survey carried out by the ILO in late 2015 on two leading micro-task crowdworking platforms, 91 per cent of American respondents who stated that crowdworking was their main job reported that they were not making social security contributions. Among Indian workers, only 15 percent reported that they would benefit from a pension fund. Other working conditions are even harder to control. For example, 35 percent of American workers and 60 percent of Indian workers stated they regularly worked between 22h00 and 5h00, which is a reflection of the time that the work was posted on the crowdworking sites (Berg, 2016).

4. Addressing potential decent work deficits in informal and non-standard employment

4.1 Understanding the source of decent work deficits in non-standard forms of employment

To address decent work deficits in non-standard work and promote their formalization, it is important to understand their source. Is it due to an exclusion of the worker by the existing laws or collective bargaining agreements? Is it because the level of legal protection is so low that it has no or a very limited effect on the improvement of working conditions? Or is it because of noncompliance? The three dimensions of (1) legal coverage, (2) the level of legal protection and 3) compliance with regulations are a useful prism for understanding and rectifying decent work deficits (figure 11).



Legal coverage refers to whether a worker is covered by the law or another regulatory mechanism, such as collective bargaining. Historically, certain economic sectors and occupations have been excluded from coverage in labour and social security laws (as well as international labour standards), such as agricultural workers, domestic workers and unpaid family workers and in some cases workers in enterprises below a

⁵ Well-known exceptions include Munchery and Alfred.

certain threshold of workers. Moreover, most labour and to some extent social security legislation only applies to workers in a dependent employment relationship; thus countries with large shares of self-employed workers will typically have much lower rates of coverage (and higher rates of informality). In industrialized countries, concerns over the rise of disguised self-employment centre on the lack of labour protections available to workers in these contractual arrangements.

The second aspect determining the degree of labour and social protections is the *level and the adequacy of the legal protection provided*. The legal level is simply how much ‘protection’ is granted by the law or other regulatory measure. Most debates on labour laws have focused on the ‘level’, ignoring the fundamental dimension of coverage itself, which is by contrast well addressed by debates about social security. The level of protection in some countries may be so low that the law has very little impact in practice, either for workers or enterprises. Yet the level of protection can also be set too high, making compliance difficult or unrealistic, notably for micro and small enterprises.

Compliance concerns whether the law is applied in practice. Laws apply to workers who are engaged in informal work arrangements, unless there are specific exclusions for certain firms or industries; for example, as mentioned before, firms under a specified threshold of workers, may be excluded from legislation. And indeed, there is empirical evidence of respect for formal laws on minimum wages, working hour limits or holidays within informal employment relationships.⁶ Nonetheless, working in a small, unregistered (informal) firm makes it more likely that labour protections are not complied with, or that compliance is partial. As a result, countries with large numbers of informally employed, have lower rates of compliance with the law. In the case of social security, countries have made significant progress in addressing gaps in legal coverage — at least for pensions, far less for unemployment — by including new categories of workers, including those in non-standard employment, within the scope of laws and regulations and current gaps in effective coverage are to a large extent the consequence of the non-application of the law in practice (ILO, 2015b).

To address compliance problems, balanced approaches combining deterrence measures through detection and sanctions, with preventive (e.g. simplification of compliance procedures) and curative measures (e.g. voluntary disclosure) are more effective. One of the preventive measures is legal awareness. Lee and McCann (2009) show in their study of legal awareness and compliance in Tanzania, that workers who were aware of their legal rights with respect to working time laws and maternity protection were more likely to benefit from these rights. With respect to working time, workers aware of the statutory standard were 1.6 times less likely to work more than the standard maximum workweek hours, whereas women aware of maternity protection rights were 2.6 times more likely to believe that they would benefit from maternity leave.

Legal awareness is also important for firms. As such, the design of legal provisions can also play a role in compliance. If laws or provisions are overly cumbersome, compliance may be compromised. Furthermore, if the respective rights and obligations of the parties concerned are not clear, or if there are inadequacies or gaps in legislation, including on the interpretation of legal provisions or their application, workers risk being unprotected. Yet clarity in the law and awareness by employees does not necessarily guarantee that the law will be complied with. For this reason, governments employ deterrence measures through inspectorates to monitor and improve compliance with the law. Trade unions and workers’ councils can also play a role in improving workers’ knowledge of their rights and employer compliance. And finally labour courts can offer an opportunity for worker redress in cases of non-compliance.

⁶ This is commonly referred to as the ‘lighthouse’ effect, whereby formal laws set a ‘social norm’ that is adhered to, or becomes a reference for bargaining among informal waged employees and their employers. The lighthouse effect was first identified by the Brazilian economists Souza and Baltar in reference to the use of the minimum wage in wage setting among informally employed workers, but is also applicable to other labour protections. Souza, P. and P. Baltar (1979) “Salário mínimo e taxa de salários no Brasil,” *Pesquisa e Planejamento Econômico* 9, 629-660.

4.2 What can we learn from the G-20 countries

While the G20 countries face important challenges in ensuring that all workers benefit from decent work regardless of their contractual arrangement and operate in the formal economy, numerous initiatives have been taken to progress toward the three different sources of deficits: coverage, level and compliance.

With regard to legal coverage and temporary employment, a first orientation adopted by countries is to prevent abusive recourse to this form of employment. The corresponding measures include limiting the number of successive fixed-term contracts authorized by law (Brazil, China, Indonesia, Saudi Arabia, as well as most EU member States) or establishing a limit on their maximum cumulative duration (Indonesia Russian Federation, Saudi Arabia in the case of casual work). The legislation may also require employers to provide specific reasons for recourse to temporary agency work, as this is the case in Brazil, Indonesia and the Russian Federation. Such contractual arrangements may also be prohibited in certain sectors (Argentina, the Republic of Korea and Japan), for certain activities within the user firm (India, Indonesia and Mexico), in the aftermath after collective dismissals, as this is the case in several EU countries, or to replace workers on strike as suggested by the ILO Private Employment Agencies Recommendation, 1997 (No. 188). Further, the law in China provides that dispatch work cannot exceed a certain percentage of the firm's workforce. Restrictions have also been placed on the use or modalities of on-call work, including zero hours contracts, for instance in Canada, the United Kingdom and in eight states of the United States⁷.

With regard to legal coverage in the gig economy, a study published by the European Platform tackling undeclared work⁸ has shown that a limited number of measures were adopted to address the challenges raised, in particular strengthening rules relating to licences and authorisations or the possibility for tax authorities to request information from platforms so as to prevent undeclared work (France, UK). The employment status of those engaged in this economy is the subject of intense debates and a number of cases have been brought toward the courts. In the United States⁹, a court ruled that drivers for a ridesharing company were employees for the purposes of employer contributions to the unemployment benefit scheme. The Suva social security agency of Switzerland took a similar decision. In France, the Court of Appeal of Paris confirmed that a former driver for a ridesharing company was an employee and was therefore entitled to protection against unfair dismissal. In the United Kingdom, the London Employment Tribunal also ruled that two drivers working for a similar company were not self-employed workers, although the existence of a full employment relationship was not recognized.¹⁰ In Spain also, the Labour Inspectorate of the city of Valencia determined that workers recruited by an online food delivery firm were employees of the company and not self-employed workers. Several lawsuits on the employment status of workers in the gig economy are also pending before the courts of Brazil.

More generally, ensuring that employment relationships are fully recognized is an important way of improving workers' protection. The ILO Employment Relationship Recommendation, 2006 (No. 198) provides guidance to member States in this regard, based on the principle of the "primacy of facts", according to which the determination of the existence of an employment relationship should be guided by the facts relating to the actual performance of work, regardless of how the parties describe the relationship. This principle is established in the laws of a number of countries, including Argentina, Australia and Mexico. In other countries, for example in India and the United Kingdom, it is recognized by the courts.

⁷ In the United States, eight States, plus the District of Columbia and Puerto Rico, have introduced "reporting time pay" laws requiring employers to pay their employees for a minimum number of hours – often three or four – when they report to work for a scheduled shift, even if the shift is cancelled or reduced in length (Luce, et al., 2014).

⁸ European Platform Undeclared Work, New Developments and Trends in Undeclared Work within the Sharing/Collaborative Economy, November 2017.

⁹ Several suits on the employment status of workers in the gig economy are pending before federal and state courts.

¹⁰ They were recognized as « workers », a specific legal category in the United Kingdom that entails entitlement to a number of labour rights, though not as extensive as those enjoyed by employees. The company intends to file an appeal against this decision.

With regard to measures for improving the level of legal protection, implementing the principle of equal treatment for workers in non-standard employment is one of the most efficient ways of ensuring an adequate level of protection for these workers. This principle is enshrined in the EU Directives on part-time work, fixed-term work and temporary agency work¹¹ and implemented in the legislation of EU member States. Similar rules apply for temporary workers in the Republic of Korea and South Africa. The principle of equal treatment is also legally recognized in India and Mexico for temporary agency workers, in Argentina, Brazil and Turkey for part-time workers. Additional measures may include setting a minimum number of hours for part-time workers, to ensure they receive a minimum amount of remuneration (France), or establishing minimum entitlements for on-call workers should the employment contract fail to regulate these issues (Germany, Turkey).

In countries where it is extended to cover all workers in a sector or occupational category, collective bargaining can be an effective means for protecting non-standard workers, thus mitigating differences in treatment amongst workers in different employment arrangements. Collective bargaining has also proved to be an efficient tool to increase employment security for workers in non-standard forms of employment. It can result in the conclusion of collective agreements that provide for the improvement of working conditions and, in some cases, the regularization of these workers (India) or the establishment of time-limits after which temporary contracts are converted into permanent ones (Canada, South Africa).

More generally, collective rights are essential elements of the protection of workers in non-standard forms of employment, including the right to establish and join trade unions. In South Africa, trade unions representing the employees of temporary employment agencies are now able to exercise their organizational rights not only at the workplace of the agency, but also at the user firm's workplace. Also in Italy temporary agency workers can exercise collective rights vis-a-vis both the agency and the user firm. Further, the legislation of certain countries, including Canada, Germany and Spain, provides that the right to collective bargaining extends beyond the scope of the employment relationship and also applies to workers in dependent self-employment.

To address gaps in legal coverage and level of social security benefits of workers in temporary and part-time employment, countries lowered or eliminated thresholds regarding minimum working hours and/or earnings or duration of employment to qualify for benefits, which is of particular relevance for women. For instance, in Japan¹² mandatory coverage of part-time employees was finally extended in 2017 by reducing the monthly salary threshold for registration and by lowering the required weekly number of hours worked from 30 to 20. Other countries allowed for more flexibility on contributions required to qualify by extending contributory periods to allow for breaks in labour market activities. The Netherlands did so by ensuring that each hour of work counts towards social security contributions (ILO, 2017). In Italy, in order to improve effective access to unemployment benefits and raise their levels for workers in non-standard forms of employment, the Fornero reform in 2012 increased the replacement rate of the Mini-ASPI (Social Insurance for Employment for workers in non-standard employment) to 75 per cent of the wage for a maximum duration of half the number of weeks of contributions. Eligibility criteria were relaxed to 13 weeks of contributions in the previous 12 months. As a result, the number of workers covered by Mini-ASPI increased by about 800,000 between November 2012 and November 2013. (ILO/EC, 2015). Following the same objectives, Germany, Japan, and the United Kingdom have adopted measures to recognize care work (e.g. child rearing) as contribution periods counting towards social security entitlements, facilitating access for part-time workers to improved social security benefits, which can reduce gender inequalities in social

¹¹ EU Directive 97/81/EC on part-time work, Directive 1999/70/EC on fixed-term work.

¹² In Japan, in October 2016, coverage for part-time employees was initially required for large companies (500 or more employees) by reducing the monthly salary threshold for registration from 108,333 yen (US\$925) to 88,333 yen (US\$755) and by lowering the required weekly number of hours worked from 30 to 20. From April 2017, mandatory coverage of part-time employees was extended under the Employees' Pension Insurance system to companies with fewer than 500 employees. (SSA, 2017; National Institute of Population and Social Security Research. 2014).

insurance systems (Fultz, 2011; ILO, 2017). As illustrated by the reform of the French unemployment insurance scheme in 2014 to introduce “refillable rights”, an approach to ensure continued protection for those moving between jobs (and status) is to enhance the portability of benefits between different social security schemes and employment statuses.

The growing number of dependant self-employed and of workers classified as independent workers in the digital economy raises the crucial question of extending and adapting social protection for self-employed people. A number of countries opted for the regulation of dependent self-employment by introducing a hybrid legal category to provide them with some legal rights, including social benefits, that would not exist under the legal status of self-employment. For example, in Germany the self-employed without employees who are dependent on a single client are subject to compulsory insurance for old-age pensions (since 1999); and Italy enacted legislation that eliminated some contractual forms and introduced others¹³. Some countries have taken steps to improve effective access to social benefits for independent workers, including for those in the gig economy. In France, the law on digital platforms (2016) obliges digital platforms to cover insurance contributions for occupational accidents for self-employed workers when the latter voluntarily take out such insurance, or to take out an insurance contract, except when the platform has established a collective contract. In Germany, the Federal Minister of Labour and Social Affairs published a white paper entitled ‘Work 4.0’ (2016) providing some suggestions and proposals for the shaping of working conditions and the provision of adequate financial and social protection in the rapidly changing world of work (EC, 2017).

Finally, measures to improve compliance have been adopted in several G20 countries.

As the frequency of informality among temporary workers tends to be high, one way to improve compliance with the law is to encourage specialized companies (for profit or non-profit, cooperatives, digital platforms) to provide some of the services usually provided by temporary workers. This is the case for example in the domestic work sector, which presents very high rates of informal employment and where work is often casual. For example, in China, those domestic workers employed by enterprises that deliver services to households enjoy labour and social protections equal to workers generally. In France, households have the option to purchase services from a licensed company (“organisme prestataire”), which employs a team of domestic workers. The employment relationship between the firm and the domestic worker is recognized in the labour code and national collective agreements. Households can also purchase domestic services using vouchers, which enables them to benefit from a 50 per cent tax deduction or credit. Social security contributions are automatically deducted from the price of the voucher, thus simplifying the registration and declaration of domestic workers, and guaranteeing the domestic worker the stipulated minimum wage and social security coverage.

A study published by the European platform tackling undeclared work highlights the practices of enforcement bodies in several EU countries for the detection and prevention of disguised employment.¹⁴ Labour law, taxation and social security enforcement bodies often cooperate with each other in addressing undeclared work, through the exchange of information and sometimes joint inspection activity (Ireland, Italy). Additional action includes awareness raising activities (Italy and the Netherlands) and the provision

¹³ The decree on the reorganization of contractual forms, provided for by the Jobs Act of 2015, has provided for the end of project contracts (collaboratori coordinati a progetto, co.co.pro) and the reorganization of co.co.co. (collaboratori coordinati e continuative). The reform included the elimination of more than 40 contractual forms, including the famous cocopro which contributed to precariousness, and introduced a new form of open-ended employment contract with the objective to make it the “common standard form of employment». In the first 9 months of 2016, Italy registered a 20.5 per cent increase in the number of new permanent contracts produced (EC, 2018; MLPS, 2018).

¹⁴ European Platform Undeclared Work, The Practices of Enforcement Bodies in Detecting and Preventing Bogus Self-Employment, June 2017.

of on-line tools that enable workers to assess their own employment status and employers to assess the status of those who work for them (Netherlands and United Kingdom).

Systems of shared liabilities in the case of multi-party work arrangements contribute to improved compliance with legal provisions that extend protection to workers in non-standard employment, in particular as regards social security entitlements and the payment of wages. Joint liability rules between the user firm and the temporary work agency are provided, for instance, in Argentina, France, India, Italy, the Netherlands, and South Africa. Australia has a comprehensive system of shared liabilities between the principals and contractors and subcontractors on occupational safety and health issues.

5. Conclusions

The high prevalence of informality is one of the key challenges for decent work, inclusive development and equality, the rule of law, development and sustainability of enterprises. It is deeply rooted in the level of economic and social development and the inability of the economy to create formal jobs. Experiences of countries that have been successful in combating informality show that transition to the formal economy can best be facilitated through an integrated strategy, policy coherence, institutional coordination and social dialogue. Interventions are more effective when they are combined and tackle different drivers of informality. Facilitating the transition from the informal economy to the formal economy should be an integral part of the policy frameworks that the G20 countries committed to establish in 2017 to support decent work and enhanced compliance with the fundamental principles and rights at work in global supply chains. In this context, efforts should target, in particular, the lower tiers. Reaching this segment of the chain raises particular challenges that will require specific attention and interventions.

Importantly, in all G20 countries, some non-standard forms of employment are particularly exposed to the risk of informality. While some of them, such as casual work found in agriculture, have been historically predominantly informal, other forms, such as temporary employment, are gaining new ground and tend to be over-represented in the informal economy. This also concerns some of the new jobs that are emerging in the wake of technological changes and digitalization, outsourcing and subcontracting.

The comprehensive set of policy instruments and approaches that have proven effective in facilitating transitions from the informal to the formal economy would bear relevance also for non-standard forms of employment. In addition, specific policies could also be considered:

- *Legal coverage of non-standard forms of employment:* current legal and social security frameworks can benefit from being reviewed to ensure that non-standard workers, including those with casual and very short-term fixed contracts, and outsourced workers in multi-party triangular employment relationships particularly, are included in their scope. Ensuring social security coverage of workers in NFSE is a particularly important component of formalisation policies and may require different measures, such as eliminating or lowering thresholds on minimum hours, earnings or duration of employment, or making systems more flexible with regard to contributions required to qualify for benefits. Care should be exercised to ensure that gains in formalization are not replaced by losses in the protection of standard employment, and that informal jobs are not replaced by formal but non-standard jobs featuring similar vulnerabilities and work deficits.
- *Level of protection of non-standard forms of employment:* current legal and social security frameworks can benefit from being reviewed so as to lift the level of protection for those non-standard workers who are covered by general labour law but do not enjoy the same protections as regular workers. Ensuring equality of treatment for workers in non-standard forms of employment is necessary to avoid discrimination based on occupation. Equality of treatment also helps maintain fair competition between enterprises. Considering the over-representation of women, young people and migrants in non-standard forms of employment, ensuring equal treatment for non-standard workers is also a way to combat discrimination at the workplace and in general.

- *Compliance with existing regulations in non-standard forms of employment*: a number of measures to increase compliance show promise, including fostering a culture of commitment and a higher tax morale; creating incentives for firms to comply with regulations; improving communication between inspections bodies; improving workers' awareness about their rights and empowering them to report violations. Combating disguised employment and creating functioning principles of shared liabilities in multi-party disguised employment relationships are also important ways of ensuring an adequate coverage of workers' protection through appropriate compliance with existing regulations.

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