

Informal, Non-standard, Precarious: concepts and measurements in France and EU; implications for international comparative evaluations.

Brief note for the WIEGO meeting, "Measuring Informal Employment in Developed Countries", Boston, 31 October-1st November 2008 and revised January 2009

François Michon (CNRS et Université de Paris 1, Centre d'Études de la Sorbonne)¹

1) Are concepts of non-standard arrangements and informal employment equivalent, substitute, opposed?

Thirty years ago, in France, the concept of *Non-standard Employment* (NSE), or Non-standard job contract was proposed, corresponding to what is now called non-standard arrangements². Of course, this NSE concept referred to industrialised countries, meanwhile, clearly, in these times, the informal employment concept referred to underdeveloped or developing countries. Today, the International Conference of Labour Statisticians (ICLS) recommends a generalization of the concept of *Informal Employment*.

Anyway, the main issue is that NSE or informal employment concepts point to the existence of their opposite; that is, a standard, a commonly used reference; that is in some countries (e.g. France) a formalized situation of employment which constitutes the guideline/standard of Labor and Employment Law. Then, non-standard, informal... is all that does not have the common protective rules. Consequently, the variety of standards from one country to another must be pointed out, even if in industrialized countries, the standard is always commonly described as "*stable and full time employment relationships*" or "*open ended work contracts for full time job and stable working hours*".

In the European Union (EU) this is a major issue now. Obviously, this is the main obstacle to the construction of any European Employment regulation. This is also the main difficulty of cross-national comparisons between our countries. Of course, this is also the main point for comparison to the US.

- All countries do not have the same protective and formalized regulatory framework. Therefore, if non-standard arrangements are developing in order to escape from standard arrangements and their constraints, it cannot be surprising that informal and non-standard arrangements cannot be described with the same characteristics from one country to another.
- Formal standards for employment are historically changing. Those situations, which were considered as protected in previous times, were not before, in ancient times; and have become unprotected now, even if the formal regulatory framework remains unchanged. By the way, it may be useful to remember that what appears as formal may appear informal in other times: today, we are generally considering as informal employment that was clearly the standard before the 2nd world war.

¹ fmichon@univ-paris1.fr

² Michon F. (1981), "Dualism and the French labour market. Business strategy, non-standard job forms and secondary jobs", in Wilkinson, F., ed., *The dynamics of labour market segmentation*, Academic Press, London, 1981, pp. 81-97.

2) In France, the NSE concept is always commonly used, but another one tends to replace it: precariousness (*precarious employment, precarious job, and precarious contract*).

In fact, it can be argued that “precarious” does not have exactly the same meaning as “non-standard” or “informal.” With “non-standard,” the accent is put on the fact of being different from the common situation. Non-standard can be stable, non precarious, it doesn’t necessarily imply by nature low wages or low incomes, poverty, bad work conditions... Even if the regulatory framework of NSE is often less protective than it is for Standard Employment, this is not always verified.

French examples:

- part-time is generally considered as NSE. But, formally, it’s not a precarious contract and may have an open-ended contract. Despite this, French part-timers have often precarious situations: a large proportion of involuntary part-timers, the first to be dismissed, having highly variable working hours.
- The French Temporary Agency Worker (TAW) is not unprotected. But, by-law, he/she has a highly precarious labour contract.
 - Protected: the law requires that TAW wage rates be equivalent to those of permanent workers on a similar position; better, that TAWs must benefit from a precariousness bonuses (+10% of wage level) and paid vacations (given in money at the end of the assignment).³
 - Precarious: any assignment can be stopped immediately by the user firm, if the TAWorker is not satisfying the user. Then the labour contract of the TAWorker ends.

Moreover, a recent report written by the CNIS (*Conseil National de l’Information Statistique*, National Council for Statistical Information)⁴ emphasizes that concepts such as “*employment*”, “*unemployment*”, “*underemployment*”, “*employment precariousness*” are in fact “socially elaborated” and, as such, are changing. It could have major consequences.

For example:

- The measure of the number of “employed people” obtained with a survey of individuals, is by nature different than the measure of a number of jobs, obtained with an employer’s survey. Differences in evaluations are well known. What is called employed, or precariously employed, by employed people, by unemployed or underemployed people, or by employers, is not the same. Also it means that informal employment cannot be evaluated similarly by the two measures.
- In fact, international concepts such as those from ILO and from Eurostat always have national variations, even if countries are using the same guidelines, even if these guidelines are obligatory as it is the case for the Labour Force Surveys in EU member states. In each country, statisticians can always keep a wide margin for interpretation. It’s the reason why as the CNIS report reminds us, Eurostat has had to elaborate more and more precise guidelines which are mandatory for member states. Furthermore, Eurostat has tried to elaborate underemployment indicators, but has given up, taking into account the hostility of some member states.

Anyway, it can be (and it is often) considered that all these concepts can be used indifferently for national studies. For the international comparative studies, it’s another matter.

³ It does not implies that incomes of TAWs are higher : they are not paid between two assignments, they don’t have any bonus for seniority, they are the more often affected to low-skilled jobs.

⁴ CNIS (2008), « *Emploi, chômage, précarité ? Mieux mesure pour mieux débattre et mieux agir* », rapport du groupe de travail sur la définition d’indicateurs en matière d’emploi, de chômage, de sous emploi et de précarité de l’emploi (président J.B. de Foucauld, rapporteurs M. Cézard, M.Reynaud), juin, 82 p.

3) To measure informal arrangements with formal positions?

Usually, employment arrangements (standard, non-standard or precarious) are evaluated on the basis of the formal definitions given by the regulatory framework, especially in France where the regulatory framework is highly formalized (the employment status as decided by Labour and Employment Law or collective agreement⁵). Explicitly or implicitly, the regulatory framework is always present when people are classifying themselves or their employees. Even for employee surveys, where a set of questions tries to evaluate the various components of the individual employment situations, there is no doubt that answers to the questions about a person's own employment arrangement (which determine their classification within the list of employment arrangements) refer to the nature of their labour contracts.

To measure the social situation of individuals, this reference to the nature of the labour contract is convenient and useful, where and when there is nothing else to refer to. This is the common case. But it does not imply that it is pertinent in the same degree everywhere, every time.

- Again : all people who t have precarious contracts are not necessarily in a precarious social position. French TAWs benefit from relatively good social protection but they suffer from high precariousness.
- Better: all people with a permanent contract are not always protected. Today, all people with stable or protected work contracts are very far from being protected against unemployment, or being sure of their retirement schemes... Precisely, this is one of the reasons why, now, the ILO recommends the use of the *Informal* concept in developed countries.

In other words, there is no direct correlation between formal/informal arrangements and the security-stability / insecurity-instability of their position, or their poor or good working conditions⁶.

Two consequences are to be noted.

- From one country to another, labour contracts are not similar. The formal arrangements are difficult to compare. The result is that the distance between formal arrangements and what is the effective employment position of individuals, and especially what are non-standard or informal arrangements, is highly variable from one country to another.
- How to evaluate "informal" arrangements with such a formal variable as the labour contract?
 - One can accept this when the so-called informal arrangements refer in fact to some kind of formalised labour contract.
 - But the nature of the new informal arrangements that appear from time to time, especially in so formalized a regulatory framework as the French one, is precisely to be "unformalized", i.e. not included in Labour Law: not forbidden by law, just not anticipated by law. The present development of various forms of outplacement especially for French managers, or highly qualified people, refers to this unformalization: non-existent for Labour Law (this is precisely its interest: to avoid the legal obligation of a dependant employment, to keep only the advantage of dependency), but highly appreciated by employers and some categories of employees.

Obviously, there is generally no other choice than to ignore these difficulties. For any study, it is necessary to work with what is available. It's specifically true for international comparisons.

⁵ Even if the French model is generally described by the State presence, it would be highly incorrect to underestimate the intense collective bargaining that exists in France, especially for TAW or working time (the 35h workweek) for which Labour Law is largely reproducing collective agreements.

⁶ See Cottrell M., Letremy F., Macaire M., Meilland C. and Michon F. (2002), « Le temps de travail des formes particulières d'emploi », *Économie et Statistique*, n° 352-353/2002, p. 169-189.

4) Available evaluations

In France and in Europe, there are not many data about precarious or non-standard employment, or more generally about various employment situations. Especially in France, it's easy to measure all kinds of contracts that are formally regulated, by law or collective agreement. But all employment that is not formally regulated is not measured.

Table 1 is representative of what it is possible to measure in France - and of what is considered as non-standard or precarious - according to the idea that open-ended contracts and all the social protection that is included within this status, constitute the standard employment relationship, formally recognized as such by the French Labor and Employment Law.

Table 1 – Share of Standard and Non-standard contracts in the total French Labour Force (%)

	2003	2004	2005
Independents	11,3	10,8	10,9
Employees	88,7	89,2	89,1
TAWs	1,9	2,0	2,2
Apprenticeships	1,2	1,2	1,3
Fixed term contracts	6,5	6,8	6,9
Training period and subsidized contracts	2,1	1,8	1,7
Open-ended contracts	77,0	77,4	76,9
Total Work Force	100,00	100,00	100,00
Of which part-timers *	35,9	36,8	37,6

* employees and independent

source : INSEE, Enquêtes sur l'Emploi

This table 1 is differentiating between contracts, all with a clear legal status, according to the usual French differentiation between employment arrangements.

- In France TAW is regulated by a specific work contract. This contract refers to a specific regulatory framework. TAWs are dependant employees of the agencies during the time of their assignment. Each assignment means one contract (the average duration of contracts is 1.9 week; for each person, the average cumulated duration of assignments during a year is 7.5 months).
 - This population does not suffer from oversight in official statistics. Individuals surveyed by Labour Force surveys as above, table 1, cannot ignore their legal situation. From this source, the only difficulty is that it's a one-off measure. Nevertheless, taking into account the short duration of contracts, the evaluation is underestimated.
 - Each assignment must be registered with the UNEDIC (unemployment insurance system). Registrations are easy to count; it is easy to reconstitute a full time equivalent for the full year. This is only an administrative and counting operation. Even now (since 2005), when TWAgencies have obtained the right to operate as ordinary intermediaries on the labour market and to recruit people to be employed by the client firm, labour contracts are not following the same scheme for TAWs and for recruitment by TWAs as temporary or permanent employee of the client (direct hires). No confusion between the two situations appears to be relevant, as it may be in the UK case (see below). More precisely, for now, no study is mentioning this possibility.
 - The profile of French TAWorkers is well known: young male blue collars with very low skills. Dynamics of change are also well known: a slow increase of white collars and skills (46,6% of unskilled blue-collars in 1995, 30% in 2007), of women (24,7% of TAWs in 1995, 28% in 2007), of older people (35% of TAWs

in 1995, 31% in 2006)⁷. This profile is highly specific to TAWs, different from profiles of other non-standard employed. This dynamic appears to have stalled in recent months: when job creation is decreasing, TAW is the first to be affected, being “an advanced indicator of employment fluctuations” according to the PRISME⁸. The development of TAW in new jobs, for new work force groups, is stopped.

- The Fixed-term contract line includes not only the fixed-term contract strictly considered, but a lot of other quite similar contracts from a legal point of view, even if each has its own specificities: seasonal contracts, intermittent contracts (journalists, artists, technicians in the cultural sector), contracts for “extras” (hotels and restaurant industries).
- Training periods and subsidized contracts are highly diversified, higher than fixed term contracts. Since the 1980s, each government introduced new employment policies, which new specific contracts, especially for youths, to encourage mixing together, during the same period of time, the two situations of employed and on-the-job training.
- Part-time is mainly for employed women. Eurostat evaluates part-timers in 2006 and in the EU-15 as 8.1% for males, 36.7% for women (% total employment). This is highly variable from one member-state to the other: for France, 5.8 and 30.2%; for Italy: 4.7 and 26.5%; for Netherlands: 23 and 74.7%⁹. Formally, part-time is defined by Eurostat as people working no more than 30 hours per week and this definition is compulsory for member countries. But there is an old (and always present) debate between researchers and statisticians, French and Latin countries on the one side, Dutch, Scandinavian and British on the other side. Is part-time voluntary or involuntary, is it a precarious or stable situation¹⁰? In France, it is generally considered that part-time is mainly involuntary. It is observed that its working hours are highly variable from one period to another one, that part-time is the first to suffer from redundancies (layoffs). As such, part-time belongs to non-standard or precarious arrangements, even if the labour contract is not at all “per se”, precarious.

In the EU there is no comparative data about TAW in member countries. Eurostat publishes data about temporary employment that is fixed-term contracts only. It’s easily understandable. TAW regulations are so different from one member-state to another that it is really highly difficult to decide on a common methodology for its measurement¹¹. CIETT, the international organisation of TWAgencies, publishes some data (table 2 below).

⁷ Full time équivalents, source : DARES - UNEDIC

⁸ The main employer organisation, to which all bigger firms are members

⁹ Source European Commission (2007), “*Employment in Europe 2007*”, Luxembourg, Office for Official Publications of the European Communities, 324 p.

¹⁰ See Michon F. (2005), “Sur la comparaison internationale des temps de travail”, in Lallement M. (dir.), “Stratégies de la comparaison internationale”, Paris, CNRS editions, p. 189-197.

¹¹ Even if today, changes in the regulatory framework are rapid, it’s possible to refer to Michon F. (2006) « Temporary agency work in Europe », in Gleason S. E. (ed) (2006), « *The Shadow Work Force. Perspectives on Contingent Work in the United State, Japan and Europe* », Kalamazoo (MI), W.E. Upjohn Institute for Employment Research, p. 271-309

Table 2: Temporary Agency Work in some industrialised countries

	Agency Work penetration rate (%), 2006	Sale Revenues (billions € 2006)
France	2,4	20
Germany	1,3	9
Netherlands	2,5	9
UK	4,5	36
Japan	1,9	25
USA	2,0	87

Source CIETT, The agency world industry around the world, 2007 edition

In fact, these data come from national employer organisations that are members of the CIETT. For France, data that are communicated by PRISME are elaborated by the UNEDIC; they are a by-product of the administrative registration of each assignment. Such a registration does not exist in every European country. In UK, evaluations of TAW (the number of people placed as temporary agent by an employment agency) vary from one million to three millions of people¹², because of the absence of a legal status of TAWs as dependant employees. TAWs can be formally independent. In other words, the heterogeneous nature of data included in the table 2 reduces their comparability. But there is nothing else.

It is easy to understand why the regulatory frameworks for TAW are completely different from one country to another. The regulatory frameworks for the standard contract (formulated by the Labour Law and/or the collective bargaining) are themselves completely different. The UK standard appears more precarious than some continental non-standard situations. Similarly, by comparison to the UK, German or Spanish cases, the French TAW is highly protected (wage levels, access to training, retirement schemes, health insurance...). It can be said that the French TAW is a non-standard work contract, and, obviously, is a precarious contract. It is not at all correct to say that it is an unprotected contract. In other words, NS contracts differ from Standard contracts, in each country case with national specificities.

Implications for measurements and policies are immediate. Opposite to the common practices of international organisations which have to produce and use comparative data, even badly comparative data, and for that, are forced to ignore these difficulties, it must be recognised that comparative analyses and international policies, when they ignore too much such difficulties, simultaneously ignore all the societal aspect of informal or non-standard arrangements. These societal dimensions may be the basis of the nature of these arrangements, precisely because informal or non-standard arrangements are developing today to balance the rigidity of formal employment, to introduce some innovations (desirable or contested) in the regulatory framework. This is clearly a new situation, which appears to be different from the one of the last century when innovations and rigidities of standard employment were developing to balance the difficult situation of dependant workers. But it's also an old situation, compared to the end of the 19th century. Every time, countries develop various answers to similar problems according to their societal trajectories.

5) Labour market flows and transitional perspectives.

It is not surprising that it is in the continental European environment that the Transitional Labour Market (TLM) models have been developed. In continental Europe, it is now an old tradition to blame rigidities of employment arrangements. Rigidities are viewed by many as the origin of the low work force mobility. Then, transitions have to be made easier, to be organized, in order to favour mobility. TLM emphasized that today, when the life-long employment becomes out-of-date, if not impossible, taken into account the high speed of changes in employment structures, it becomes more and more necessary to dissociate social welfare and job tenure, to organize transitions on the labour market, with the objective to minimize the incidence of job changing on the social protection for individuals.

¹² See Osborne M. (2005), "Industry report: Temporary Work Agencies in the UK", paper prepared for the Russell Sage Foundation project "Low Wage work in Europe", London, National Institute of Economic and Social Research, 46 p.

One origin of this perspective is the old French approaches of the labour market, which proposed a critical view of classical approaches that are opposing a description of labour market processes in terms of labour flows to the classical one in terms of labour stocks. In this perspective, it is considered as helpful to any labour market diagnosis to have good measurements not only of employment, unemployment, underemployment, out of labour force, but also to have a good evaluation of labour flows: people that are leaving one of these situations and accessing another one.

For precarious job issues for example, it's clear that if TAW remains on low levels (despite a rapid growth in the long period) these levels do not fully illustrate the crucial role TAW may have within the labour market processes. The share of TAWs coming from unemployment, or going back to unemployment, relatively to the total in-flows or out-flows from or towards unemployment (around 40%), is considerably higher than its share in the total number of employed (around 2%).

The US indicators of the BLS constituted the beginning of the thinking of the CNIS¹³ about the renewal and revising of unemployment and employment measurement in France. Behind many suggestions formulated by CNIS to change the French indicators, in order to evaluate the quality of the indicators that try to appreciate the “grey” zone around employment, unemployment and out of the labour force, CNIS proposes to check relationships of people to the labour market, with a longitudinal evaluation: how many of the people in the grey zone (during one first evaluation) are employed, unemployed, in the grey zone, or out of labour force, 3 months, 6 months, one year after the first evaluation.

The CNIS cautions that incidences of precariousness must be evaluated from such a longitudinal perspective, and require trajectory indicators, and a long duration of the observation period (3 or 5 years, it is declared). It is considered as the mean for a good evaluation of the chance of people to access any permanent position, or a good evaluation of the risk of being trapped in some sequence of precarious jobs – unemployment. Here, difficulties for a definition and an evaluation of NS arrangements are transferred to another one, how to define trajectories and evaluate the number of people going through these trajectories. CNIS suggests thinking of an indicator of employment precariousness: it could be the probability to have a precarious job or to be unemployed the third year after two years of presence in these situations.

The CERC¹⁴ (Council for Employment, Incomes, and social cohesion, *Conseil de l'Emploi, des Revenus et de la Cohésion sociale*) preferred to avoid a frontal debate about precariousness. The CERC proposed two approaches:

- *Employment instability* is viewed as the lack of continuity in the employment relationship between the employee and one employer. The indicator could be the seniority of individuals within the same firm, or the labour turnover within a single firm
- *Employment insecurity* points the risk of unemployment and the difficulties of the job search for unemployed. Its indicator could be based on transitions between employment and unemployment.

A major interest of such perspective is that the two approaches give « contradictory » empirical results. In France, employment insecurity appears to be high, but employment instability (evaluated with the seniority of individual) is low. In Germany and UK, employment insecurity and employment instability would be high. In Netherlands, insecurity would be low and instability high.

Anyway, for the present debate about measurement of NS or informal employment, this perspective emphasized that it's not enough to evaluate everything that is not full time and open-ended arrangements. It's not only the nature of the labour contract but every components of employment quality that must be taken into account. Seniority within the firm, transitions between employment and unemployment are important indicators of employment quality

¹³ See CNIS (2008), op. cit.

¹⁴ See CERC (2005), « La sécurité de l'emploi face au défi des transformations économiques », rapport n°5, Paris, La documentation française, 184 p.

6) To conclude

What does it all mean? Of course, from an international comparative perspective, the transitional guidelines and the idea of “trajectories” indicators do not solve any difficulties of the measurement of the grey zone where NS arrangements are diffused. Nevertheless, it indicates that there is no perfect solution of this difficult issue of the grey zone measurement. This grey zone is covering all the unclear situations, all positions that are not easily classified within any single classification code, across all countries. An imperfect substitute could be to focus on NS arrangements: how can they be defined in each country and why they are used, that is where they are observed, where NS employed are coming from, and where they are going to.