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Electronic version

URL: <https://journals.openedition.org/rdctss/2246>

DOI: 10.4000/rdctss.2246

ISSN: 2262-9815

Publisher

Centre de droit comparé du travail et de la sécurité sociale

Printed version

Date of publication: 1 December 2017

Number of pages: 96-109

ISSN: 2117-4350

Electronic reference

Alfredo Sánchez-Castañeda, "Informal Employment in Mexico and Central America: A Complex Phenomenon", *Revue de droit comparé du travail et de la sécurité sociale* [Online], 4 | 2017, Online since 01 November 2021, connection on 04 December 2021. URL: <http://journals.openedition.org/rdctss/2246> ; DOI: <https://doi.org/10.4000/rdctss.2246>

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INFORMAL EMPLOYMENT IN MEXICO AND CENTRAL AMERICA: A COMPLEX PHENOMENON

RÉSUMÉ

Cet article propose d'étudier l'emploi informel au Mexique et en Amérique centrale. La première partie montre que l'économie informelle est un phénomène structurel, touchant de nombreux emplois, que l'on classe à partir des instruments internationaux de l'OIT. Par la suite, nous analyserons la diversité des emplois concernés dans les pays étudiés et les effets des politiques publiques visant à formaliser l'emploi informel. Le constat s'impose de la faible efficacité de ces politiques.

MOTS CLÉS: *Économie informelle, Emploi informel, Mexique, Amérique centrale*

ABSTRACT

This article is an approach to a study of informal employment in both Mexico and Central America. The first part shows how the informal economy is a structural phenomenon with a plurality of occupations, classified according to ILO's international instruments. Subsequently, we analyse the multiplicity of jobs, which intersect repeatedly in the countries studied and the effects of public policies that intend to formalize informal employment. We stress out the low effectiveness of these policies.

KEY WORDS: *Informal Economy, Informal Employment, Mexico, Central America*

Law plays a fundamental role in the debate over informality. It would not be accurate to say that the law ignores informal working. Any professional occupation, even of this type, has necessary legal consequences. In this sense, if there are employment relationships in the informal sector, they must be unambiguously recognized, particularly when it comes to subordinate workers disguised as self-employed workers or entrepreneurs. However, it is also important to emphasize the complexity of informal working as it is understood by international instruments and as it manifests itself in the countries analysed.

Before going any further, it should be pointed out that Latin America is made up of countries that are very different, distinct from each other in their languages, traditions, cultures and origins. Can we put together in this study Central¹ America (Guatemala, Belize, Honduras, Salvador, Nicaragua, Costa Rica and Panama) and Mexico in this study? Regularly, when we refer to Latin America, we emphasize elements in its identity that are far from accurate. What exactly do we mean by "Latin America" from a geographical point of view? All the countries in South and Central America? No doubt, but according to geographers, Mexico belongs to North America. Perhaps, to simplify, we should content ourselves with using this name to include the nations situated south of the *Río Bravo* (the river that forms the border between the United States and Mexico)? But then we would need to accept that Guyana and Surinam are part of "Latin" America. The notion of cultural unity can also be called into question. Are the parts of the Americas populated by black people originating from the African continent Latin? Is Guatemalan society Latin, when 55% of the population descend from the Mayas and speak indigenous languages? Is Belize Latin?² It seems obvious that the disparities between countries, regarding both their size and their economic or cultural potential, do not argue in favour of a real unitary conscience.

Nonetheless, within Latin America (Mexico and Central America included), it is possible to identify shared traits, such as a peripheral role. This is an America marked by Spanish and Portuguese colonization. These countries have the same economic development problems. They also belong culturally to the West, as the pre-Columbian civilizations did not resist the invaders, who succeeded at imposing their languages, values and religion.³ Parallel histories have forged realities that, without necessarily being identical, have points in common that distinguish them from other regions of the world. In these countries, for example, belated industrialization with a low level of autonomy has been accompanied by highly concentrated and unequal urbanization.⁴ Violence, insecurity⁵ and a substantial informal economy are common features to all Latin American societies.

1 Central America is the geographical region on the American continent situated between North and South America. It is surrounded by the Pacific and the Atlantic Oceans. Politically, it consists of seven countries: Guatemala, Belize, Honduras, Salvador, Nicaragua, Costa Rica and Panama.

2 A. Rouquié, *Amérique latine. Introduction à l'Extrême-Orient*, Éditions du Seuil, Paris, 1987, p. 15.

3 *Ibid*, pp. 20-21.

4 J.P. Deler «Un espace marqué par la métropolisation», *Problèmes d'Amérique Latine*, no.14, 1994, pp. 41-44.

5 F. Martin Cubel, *El Estado de la seguridad en América Latina, Documento Opinión*, Instituto Español de Estudios Estratégicos, Enero de 2016, http://www.ieee.es/Galerias/fichero/docs_opinion/2016/DIEEQ01_2016_Seguridad_AmericaLatina_FernandoMartinCubel.pdf

Mexico and Central America have another point in common: their legal traditions. Laws in Latin America are heavily inspired by European ones.⁶ We can therefore find, at a regional level, laws with a high dose of idealism, paternalism, legalism and formalism, which have difficulties penetrating into society, preventing the consolidation of the Rule of Law.⁷ Labour law, for its part, has seen significant development and has been given a concrete structure in a remarkable set of Labour Codes. And yet a major problem with application still exists.⁸

It should also be noted that Mexico and the countries of Central America share the same colonial history. They have a western culture and syncretic Indian cultures. Although it is true that Mexico and Central America are undergoing a period of modernization, it is also true that the marginalization of a large part of the population obliges them to take refuge in the informal economy, a structural, non-cyclical phenomenon (I), which manifests itself in complex ways in the countries analysed (II).

I - INFORMAL EMPLOYMENT: A COMPLEX, STRUCTURAL PROBLEM

Informal employment in Mexico and Central America is a permanent, structural phenomenon (A). A large number, but also a very diverse range of jobs are affected, which sometimes complicates the identification of the types of occupations involved (B).

A - STRUCTURAL PHENOMENON

In both Mexico and Central America, repeated economic crises, unemployment, underemployment, low wages in the formal sector and the decentralization of production towards the informal sector - a strategy to reduce production costs - have all contributed to the birth, growth and development of the informal economy.

The growth in the informal sector is explained by the need to survive, a desire for independence, flexibility, the casualization of the labour market and even by the desire to earn more than what the wages in the formal sector offer.⁹ In 2013, informal employment represented 46.8% of non-agricultural employment in Latin America, a rate which was 3.3% bigger on 2009, when it reached 50.1%.¹⁰ In 2014, informal employment represented 42%

6 R. David, «L'originalité des droits de l'Amérique latine», in R. David, *Le droit comparé, droits d'hier, droits de demain*, Economica, Paris, 1982, p. 166.

7 K.L. Karst, K.S. Rosenn, *Law and Development in Latin America. A Case Book*, 1975, p. 65.

8 N. Álvarez, et al. "Derechos laborales en Centroamérica y Panamá", *Informe Estados de la Región*, 2008; M. García Villegas, "Ineficacia del derecho y cultura del incumplimiento de reglas en América Latina", in C. Rodríguez Garavito, (coord.), *El derecho en América Latina: un mapa para el pensamiento jurídico del siglo XXI*, Buenos Aires, Siglo Veintiuno Editores, 2011, pp. 160-184; J. Weller, (comp.), "Elementos para el perfeccionamiento de la institucionalidad laboral de Panamá: El contexto regional.", in *Perfeccionamiento de la institucionalidad laboral en Panamá*, 2009, pp. 33 et s.

9 According to the INEGI National Survey of Micro-enterprises, 5% of the population were in the informal economy because they could not find work, whilst 95% had slipped into it to join in a family activity or because they found they had a better income there.
<http://www.beta.inegi.org.mx/proyectos/enchogares/modulos/enamin/2012/>.

10 R. Guerra, A. Joslyn, *El trabajo informal en Panamá. Encuesta de Propósitos Múltiples*. Marzo 2014, Ministerio de Economía y Finanzas, Panamá, 2015, p. 8; CEPAL/OIT, *Coyuntura laboral en América Latina y el Caribe Formalización del empleo y distribución de los ingresos laborales*, Octubre de 2014, n°11, p. 15.

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of non-agricultural employment in Panama.¹¹ In 2013 the informality rate in Costa Rica was 30.7%, 60.1% in Salvador, 72.8% in Honduras, 73.6% in Guatemala and 82% in Nicaragua (population with no social security).

Latin America (14 countries): non-agricultural informal employment rate by occupational category, 2013 (percentages). ¹²	
	Informality rate
Public sector	15.9
Private sector (employees and employers)	32.9
Enterprises with 1 to 10 employees	58.6
Enterprises with more than 10 workers	14.4
Self-employed	82.3
Domestic service	77.5
Contributing family workers	100.0
Total	46.8

Source: Source: ILO SIALC based on household surveys.

NB: Employees aged 15 years and over in urban areas.

Informal employment generally presents low-productivity and poor working conditions.¹³ Informal workers are particularly exposed to risks and vulnerability, specially occupational accidents and illnesses, loss of income due to disability, redundancy and old age. In addition, workers have no rights when it comes to working hours, payment of benefits like overtime, minimum wage, paid holidays and union membership among other things.¹⁴

B - THE COMPLEXITY OF INFORMAL EMPLOYMENT

The International Labour Organization, (ILO), over the years, has come to a definition of informal economy based on the notion of employment. This constitutes a starting point to get an idea of the diversity of situations falling within the informal economy in the countries analysed: workers, self-employed workers, informal employers, small informal enterprises and informal workers working for a formal company.

It was during an ILO mission in Kenya in 1972, whose aim was to establish a global employment strategy, that the notion of the informal sector appeared for the first time. Its main characteristics were then: the ease of entry, reliance on indigenous resources, family ownership of enterprises, small scale of operation, labour-intensive and adapted technology, skills acquisition outside the formal school sector and unregulated and competitive markets.¹⁵

11 Fundación del Trabajo, *Desafíos para la formalización de la economía informal en Panamá. Visión desde el mercado laboral*, Boletín Electrónico, no. 3, julio de 2014, p.7, http://www.funtrab.org.pa/uploads/boletin_3_-_julio_2014.pdf.

12 L. Deelen, (ed.), *Políticas para la formalización de las micro y pequeñas empresas en América Latina. Experiencias, avances y desafíos*, Santiago de Chile, Organización Internacional del Trabajo, 2015, p. 12.

13 Fundación del Trabajo, *Desafíos para la formalización...*, op. cit., p.1.

14 L. Deelen (editora), *Políticas para la formalización...*, op. cit., p. 27.

15 P.-M. Roy et P. Bodson, «Peut-on formaliser le secteur informel?» in P. Bodson, P.M. Roy, *Politiques d'appui au secteur informel dans les pays en développement*, Economica, Paris, 1995, p. 4.

This initiative is of particular importance for the purposes of labour law, for it contained, for the first time, a definition of a functional nature focused on employment. The informal sector represents, to ILO: "a set of units producing goods and services mainly with a view to generating employment and income for the people concerned. These units, with a low level of organization, operate on a small scale and in a specific way, with little or no division between labour and capital as factors of production. Labour relations, if any, are based on casual employment, kinship or personal/social relations rather than contracts with formal guarantees".¹⁶

The ILO has recently considered that it is more appropriate to refer to the informal economy rather than the informal sector because: "...this expression accommodates considerable diversity in terms of workers, enterprises and entrepreneurs with identifiable characteristics. They experience specific disadvantages and problems that vary in intensity across national, rural and urban contexts. The expression "informal economy is preferable to "informal sector" because the workers and enterprises in question do not fall within any one sector of economic activity but cut across many sectors. However, it tends to downplay the linkages, grey areas and interdependencies that exist between formal and informal activities. The term "informal economy" refers to all economic activities by workers and economic units that are - in law or in practice - not covered or insufficiently covered by formal arrangements. Their activities are not included in the law, which means that they are operating outside the formal reach of the law; or they are not covered in practice, which means that, although they are operating within the formal reach of the law, the law is not applied or not enforced; or the law discourages compliance because it is inappropriate, burdensome, or imposes excessive costs. The ILO's work needs to take into account the conceptual difficulties arising from this considerable diversity".¹⁷

Although the initial intention is to create jobs to provide an income, informality commonly arises from the fact that employees working in formal enterprises are not declared or are hired as self-employed (own-account) workers. There can also be cases of formal enterprises that subcontract activities to other enterprises, which, in turn, have not registered their workers to social security and do not abide by the rules applicable to waged work. For ILO's Recommendation no. 204, the term "informal economy": "... a) refers to all economic activities by workers and economic units that are - in law or in practice - not covered or insufficiently covered by formal arrangements; and b) does not cover illicit activities, in particular the provision of services or the production, sale, possession or use of goods forbidden by law, including the illicit production and trafficking of drugs, the illicit manufacturing of and trafficking in firearms, trafficking in persons, and money laundering, as defined in the relevant international treaties."¹⁸

Another thing to consider is that, according to the approach advocated by Recommendation no. 204, informal labour can be observed in all sectors of the economy, in both the public and

16 ILO, *Fifteenth International Conference of Labour Statisticians. Conference report*, January 1993. http://www.ilo.org/wcmsp5/groups/public/---dgreports/---stat/documents/normativeinstrument/wcms_087485.pdf)

17 ILO, *Resolution concerning decent work and the informal economy*. International Labour Conference, 90th session, 2002.

18 International Labour Conference, *Recommendation 204 - Recommendation on the Transition from the Informal to the Formal Economy*, adopted by the Conference at its 104th session, Geneva, 12 June 2015.

private realms.¹⁹ This recommendation refers to the Resolution concerning decent work and the informal economy as well as the ILO's 1993 functional definition in the matters concerning the exclusion of illicit activities from the scope of the informal economy. The Recommendation stipulates that economic units in the informal economy include: a) units that employ hired labour; b) units that are owned by individuals working on their own account, either alone or with the help of contributing family workers; and c) cooperatives and social and solidarity economy units.

In addition, the Recommendation recognizes different types of actors in the informal economy. Thus it would apply to:

"all workers and economic units – including enterprises, entrepreneurs and households – in the informal economy, in particular:

- a) those in the informal economy who own and operate economic units, including: i. own-account workers; ii. employers; and iii. members of cooperatives and of social and solidarity economy units;
- b) contributing family workers, irrespective of whether they work in economic units in the formal or informal economy;
- c) employees holding informal jobs on informal enterprises, or informal economic units in the informal economy, including but not limited to those in subcontracting and in supply chains, or as paid domestic workers employed by households;
- d) workers in unrecognized or unregulated employment relationships."

Recommendation no. 204 refers to both production units and workers, given that it is sometimes difficult to distinguish one from the other. This is the case, for example, when a worker exercises an activity as both a self-employed worker and an employer. The categories used in the Recommendation constitute a reference framework that can be used to study informal employment in Mexico and Central America, even though the boundaries between these categories are not always clear.

II – TYPES OF INFORMAL EMPLOYMENT IN MEXICO AND CENTRAL AMERICA

One of the advantages of ILO's Recommendation no. 204 is that it identifies the types of jobs existing in the informal economy, most of which we encounter in Mexico and Central America (A).²⁰ These jobs have been the subject of public policies that have not had the desired level of success in reducing informality (B).

19 In Mexico, the public administration has a large number of employees hired as self-employed workers who should have a formal employment relationship (35%). Source: ENOE 2015.

20 F. Delgado Jiménez, "El empleo informal en Costa Rica: características de los ocupados y sus puestos de trabajo", *Revista de ciencias económicas*, Vol. 31, n° 2, 2013, pp. 35-51; R. Guerra, A. Joslyn, El trabajo informal en Panamá..., *op. cit.*, pp. 9 y 10.; J. Mezzera, "Apuntes sobre la heterogeneidad en los mercados de trabajo de América Latina" in D. Carboneto, D., et. al., *El sector informal en los países andinos*, ILDIS/CEPESIU, Ecuador, 1995, p. 64.

A – WORKERS, SELF-EMPLOYED WORKERS, EMPLOYERS, ENTERPRISES AND HOUSEHOLDS

In the case of Mexico and Central America, labour in the informal economy can be divided into four main groups: workers (including family workers, unpaid workers, domestic workers and agricultural workers) (1); self-employed workers (2); informal enterprises or employers using informal workers (3) and, finally, formal enterprises or employers using informal workers to develop concealed labour relations (4).²¹

In Panama, for example, the share of workers, self-employed workers and employers in the informal economy was as follows in 2013: 1.4% contributing workers, 6.8% employers, 16.8% waged workers and 75.1% self-employed workers. The latter are the ones with the most precarious working conditions, the greatest productivity and the largest income disparities.²²

1 - Workers

"Workers" very often carry out their activities in conditions that are hazardous from a health and safety at work point of view. They have irregular income and working hours.²³ Although they have certain rights, these are lower than the standards fixed by the labour legislation. Similarly, they have no social security, which renders them vulnerable. It is also possible to find amongst them workers "disguised" as self-employed workers.²⁴ The Resolution concerning decent work and the informal economy thus emphasizes that "Workers in the informal economy may be characterized by varying degrees of dependency and vulnerability" (conclusion no. 9).

In Mexico, according to the *Instituto Nacional de Estadística y Geografía* (INEGI) the population occupied informally, which includes all forms of informal employment, totals 29.5 million people. For the INEGI the informal sector is made up of:

- the population occupied in non-agricultural economic units operated without accounting and that use the resources of the household or person who runs the activity, not being formal companies;
- domestic work;
- unprotected agricultural work, and
- workers occupied in formal economic units without social security cover.²⁵

There is a strong female component in the informal economy. Women are generally employees who occupy lower positions and can sometimes be victims of discrimination, which is also the case in the formal sector.²⁶ Informal employment in domestic service represented 5% of total employment in Latin America in 2013.²⁷

21 F. Delgado Jiménez, "El empleo informal...", *op. cit.*, pp.35-51.

22 Fundación del Trabajo, *Desafíos para la formalización...*, *op. cit.*, p. 8.

23 OIT, *Cartilla pedagógica como herramienta para facilitar procesos organizativos y formativos con trabajadores de la economía informal*, Consejo Sindical Unitario de América Central y Caribe, 2014, p. 6.

24 F. Delgado Jiménez, "El empleo informal en ...", *op. cit.*, p. 41.

25 INEGI, *Encuesta Nacional de Ocupación y Empleo. Cifras del segundo trimestre de 2017*, 14 de agosto de 2017, http://www.inegi.org.mx/saladeprensa/boletines/2017/enoe_ie/enoe_ie2017_08.pdf

26 C. Rakowski, "Desventaja multiplicada. La mujer del sector informal", *Nueva Sociedad*, n°90, pp. 134-146; M. Pollack, *¿Feminización del sector informal en América latina y el Caribe?*, Naciones Unidas, Chile, 1993, p. 59.; D. Castillo Fernández, "La mujer en el sector informal ¿De qué hablamos?", *Acta sociológica*, UNAM, México, n°7, pp. 9-21.

27 CEPAL/OIT, *Coyuntura laboral en América Latina...*, *op. cit.*, p. 15.

In Panama, 30% of men work in the informal sector. For women, the proportion is only 23%. But this asymmetry is made up for with a higher incidence of female informality in domestic services, where 8% of women are employed, compared to 1% of men.²⁸ Women therefore play an important role in the informal economy in Mexico and Central America (a). The same can be said of rural workers (b) and certain vulnerable workers in informal labour (c).

a - Domestic Work

In Latin America, the characteristics of domestic employment, which link it to informal labour, such as insufficient income, lack of protection against risks (health, old age, sickness and unemployment) and the high incidence of poverty are largely determined by the total or partial failure of legislation to protect domestic workers.²⁹

In Mexico, domestic work is governed by the Federal Labour Law (LFT) which, even after recognizing that it is a special type of activity, fails to grant it full protection. For example, an employer of domestic workers is not obliged to affiliate them in the social security system. Consequently, even where their labour rights are respected, they remain informal since access to social security cover remains optional. According to the data of the *Encuesta Nacional de Ocupación y Empleo* (ENOE, 2017), there are currently 2,285,538 domestic workers.³⁰

In Panama, the great majority of workers in domestic services are women. They have informal jobs or are simply deprived of social security. The main reason for this exclusion is probably the fact that the social contribution rate (employer and employee contributions included) increases wage costs by 22%, which could explain the reluctance of many households with an average income to pay such costs, without justifying their behaviour for all that. In other cases (in particular in high-income households), there may be a cultural problem and a lack of awareness of the impact of abiding by this obligation.³¹

b - Agricultural Workers

In many countries, there is a rural informal sector consisting of smallholdings, traditional trades and commercial activities as well as subsistence farming. It has been emphasized that, in those countries, most activities in the informal sector take place in rural areas.³² In Mexico, the INEGI estimates this figure to be around 5.9 million people.³³

28 Fundación del Trabajo, *Desafíos para la formalización...*, op. cit., p.1.

29 M. Cebollada Gay, "Propuesta de política pública para la formalización del trabajo del hogar remunerado en México", en OIT, *Protección social del trabajo doméstico Tendencias y estadísticas*, OIT, 2017; M. G. Loyo y M.D. Velásquez, "Aspectos jurídicos y económicos del trabajo doméstico remunerado en América Latina", in Valenzuela, María Elena y Mora, Claudia, *Trabajo doméstico: un largo camino hacia el trabajo decente* Santiago, Oficina Internacional del Trabajo, 2009, p. 69; DHUCA, *Investigación Reconociendo el Trabajo Doméstico Remunerado en El Salvador*, UCA, OIT, 2015, p. 162; OIT, *La legislación salvadoreña a la luz del Convenio sobre el Trabajo Decente para las trabajadoras y los trabajadores domésticos*, n°189, 2011, OIT, 2015, pp. 57 y ss.

30 INEGI, *Encuesta Nacional de Ocupación y Empleo...*, op. cit.

31 Fundación del Trabajo, *Desafíos para la formalización...*, op. cit., p. 9.

32 J. Charmes, «Approches comptables, statistiques et économiques du secteur informel», AMIRA (amélioration des méthodes d'investigation et de recherche appliquées au développement) brochure n°61, pp. 5-53.

33 INEGI, *Encuesta Nacional de Ocupación y Empleo...*, op. cit.

b - Vulnerable Workers

Children, women,³⁴ young people,³⁵ migrants,³⁶ indigenous populations and the elderly make up the bulk of vulnerable workers.³⁷ Women often occupy unproductive, unpaid jobs, which can apparently be explained by the rigidity of the job market as well as cultural factors that prevent them accessing more productive jobs. In informal employment, women are overrepresented in the category of unpaid family workers and underrepresented in the employers category.³⁸

2 - Self-employed Workers

A self-employed worker is one who manages his own economic unit, partly reproducing certain archaic forms of capitalism, in both the organization and the methods of production.³⁹ An informal self-employed worker is one who manages an enterprise producing goods or services that:

1. does not constitute a legal entity separate from the household or the members of the household to which it belongs;
2. does not have an accounting mechanism;
3. maintains the confusion between productive labour and capital (since he may be the employee of his own production unit if only one worker is required).
4. does not declare the enterprise's income or flows of capital and his status as owner or employee of his own enterprise.

The self-employed worker covers all the needs of his own enterprise. He is a sort of conductor, who although generally has no training must nevertheless use all his ingenuity to make a success of his activity. This more or less positive image does not apply to all self-employed workers. Amongst them, there are also street workers who carry out activities that barely enable them to survive from day to day.

Self-employed workers may also carry out their activities under hazardous conditions and find themselves in a situation of real vulnerability, just like informal employees. Their situation is sometimes extreme, when they are operating at survival level or they fall within a development logic. In the latter case, in principle their labour should enable them to accumulate some capital and invest it, in order to progress economically and give their activity a certain commercial potential.⁴⁰ However, as they operate in the informal economy, access to credit remains very uncertain.

34 A. Seligson, "Las mujeres en el sector informal costarricense : Causas del éxito", *Anuario de Estudios Centroamericanos*, n°24, 1998, pp. 21-46.

35 OIT, *Formalizando la informalidad juvenil: experiencias innovadoras en América Latina y el Caribe*, Lima, OIT, Oficina Regional para América Latina y el Caribe, 2015, p. 71.

36 L. Paniagua Arguedas, "Situación socio-laboral de la población nicaragüense en Costa Rica", *Revista de Ciencias Sociales*, n°117-118, 2007, pp. 57-72.

37 A. Brenes Narváez y F. Cruz Rivera, "Determinantes de la informalidad en Nicaragua", *Revista de Economía y Finanzas BCN*, 2016, pp. 124 y ss.

38 L. Deelen, (Editora), *Políticas para la formalización de las micro...*, op. cit., p.31.

39 J. Charmes, «Débat actuel sur le secteur informel», *Revue Tiers Monde*, n°112, 1987, pp. 855-875.

40 Fundación del Trabajo, *Desafíos para la formalización...*, op. cit., p. 8.

In 2013, informal employment in the informal sector - which mainly includes self-employed people and informal micro-enterprises - represented almost 2/3 of informal employment and 30.7% of total non-agricultural employment in Latin America. The highest informality rates in 2013 were observed among own-account workers (82.7%), followed by domestic workers (79.1%) and workers in micro-enterprises with less than 10 workers.⁴¹

3 - Small Informal Enterprises or Informal Employers Using Informal Workers

An individual enterprise can be created by a single member of a household, several members of the same household or by different households.⁴² The informal enterprise is held and operated by its owner, alone or in partnership with members of the household or different households. It employs permanent workers (as well as unpaid family workers). Their activities are mainly manufacturing or repairing activities⁴³ or the provision of services.⁴⁴ In informal enterprises, two extreme cases have been observed: the activity may be a simple subsistence activity or it may be part of a wider ambition, offering informal entrepreneurs the opportunity to develop and get richer.⁴⁵ A high proportion of the jobs created by this type of unit is informal. In 2013, the rate of informal employment among the self-employed was 82% and 59% among small enterprises. According to ILO, again in 2013, self-employed workers and enterprises with a maximum of 10 workers represented 70% of informal employment in the region.⁴⁶

Self-employed workers and the owners of family enterprises generally take on two roles. Whilst being responsible for the management of the enterprise, at the same time they also carry out tasks which could, in principle, have been entrusted to an employee. The productive activities of a family enterprise produce two types of income: income attached to the role of enterprise owner and remuneration for the work actually done. This is why the income is generally described as "mixed".⁴⁷

At a microeconomic level, amongst the main decisive factors that influence small enterprises' decision to operate informally, we find:⁴⁸

- the low productivity of micro and small enterprises, which would not enable them to afford the costs of formality.
- the complexity of enterprise registration procedures, the burden of contributions and taxes, as well as inadequate regulation.
- the attractiveness of informality as an option allowing flexibility and independence, compared to the few advantages of formality.
- fewer controls and minimal likelihood of being sanctioned.

41 CEPAL/OIT, *Coyuntura laboral en América...*, op. cit., p. 15.

42 ILO, *Fifteenth International Labour Organization...*, op. cit., p. 62 ; F. Wils, *The informal sector in greater Sao Paulo: A discussion of concepts and criteria, and a description of its characteristics*, Institute of Social Studies (Working Papers), The Hague-The Netherlands, 1991, p. 21.

43 ILO, *Fifteenth International Conference...*, op. cit., p. 63.

44 R. Guerra, A. Joslyn, *En trabajo informal en Panamá...*, op. cit., p. 12.

45 Fundación del Trabajo, *Desafíos para la formalización...*, op. cit., p. 8.

46 L. Deelen, (ed.), *Políticas para la formalización...*, op. cit.

47 ILO, *Fifteenth International Conference...*, op. cit. p. 18.

48 L. Deelen (Editora), *Políticas para la formalización...*, op. cit.

Informal enterprises encounter multiple problems such as, for example, restrictions on being able to seek financing through formal financial entities. Informality implies restrictions on access to the market, public contracts and advertising. These restrictions can also concern the circulation and transport of goods and products. Operation in the informal sector also implies obstacles to establishing contracts with workers, suppliers and customers beyond family and friends. Informal enterprises are also likely to be victims of extortion on the part of corrupt public servants and are excluded from the services provided by the different public organizations dedicated to productive development.⁴⁹

4 - Formal Enterprises or Formal Employers Using Informal Workers

In the informal economy, there are also formal enterprises that obtain supplies from informal enterprises or self-employed workers.⁵⁰ In 2013, in Latin America, informal employment in the formal sector represented 11.7% of total non-agricultural jobs, due to the failure to comply with the regulatory framework, poor knowledge of the law or institutional weaknesses.⁵¹

The decentralization of production by large enterprises, which systematically use subcontracting, has also led to an increase in informality. Workers are thus hired by subcontracting enterprises (with falsely independent relations). It is not surprising that in Mexico a regulation was enacted on subcontracting in 2012, intended to ensure that the subcontracting or principal companies comply with their legal obligations regarding social security and labour law.

Employment formalization measures adopted by governments aim to formalize micro and small enterprises and also to emphasize the formalization of self-employed work where the levels of informality are quite high. The formalization of informal enterprises also implies the formalization of the jobs they generate.⁵²

B - EMPLOYMENT FORMALIZATION STRATEGIES AND THEIR OUTCOMES

In Mexico and Central America, there are many programmes to formalize jobs (1). However, the outcomes are difficult to positively assess, and it seems that these policies have not been as effective as was hoped and they have fundamentally failed to reduce the number of informal jobs (2).

1 - Employment Formalization Programmes

Let's Grow Together (PS) is a Mexican plan offering social and tax advantages and access to property loans to combat informality. The programme was created for self-employed workers and small informal enterprises. Beneficiaries can:⁵³

- **Obtain a property loan.** A taxpayer who pays contributions to INFONAVIT (National Workers' Housing Fund) for four months (if he has an employer) or seven months (if he has

49 *Ídem.*

50 R. Guerra, A. Joslyn A., *En trabajo informal en Panamá...*, op. cit., pp. 9 y 10; INEGI, Encuesta Nacional de Ocupación y Empleo.... op. cit.

51 CEPAL/OIT, *Coyuntura laboral ...*, op. cit., p. 2.

52 D. Martínez, *Políticas Activas de Mercado de Trabajo para generar empleo y mejorar la calidad de los empleos en América Latina*, Santiago, Comisión Económica para América Latina y el Caribe, 2016, p. 30.

53 Gobierno de México, ¿Qué hacemos?, 2 de junio de 2015: www.crecamosjuntos.gob.mx

no employment relationship) can access a loan. The loan can be used to refinance existing mortgages. In addition, the government will subsidize a part of the mortgage payments.

- **Access social security.** With the payment of a preferential reduced quota for 10 years, it is possible to access the *Instituto Mexicano de Seguridad Social (IMSS, Mexican Social Security Institute)* for sickness, maternity, disability and old age cover, etc.

- **Get support for entrepreneurs.** Access to a grant of 4,000 Mexican pesos (about 230 Euros) to improve commercial commitment. Thanks to BANSEFI (National Savings and Financial Services Bank) a grant of 2,000 pesos is available for an overdrawn bank account and another 2,000 pesos can be obtained to support investment.

- **Get financing for enterprises.** Access to loans of 20,000 to 300,000 pesos. Loans are mainly for enterprises with more than 2 years of activity. Repayment periods vary from 24 to 60 months depending on the use of the loan.

- **Access consumer credit.** Access to the National Fund for Workers' Consumption. The money can be used to buy electronic equipment, tourist services, furniture, medical care, among other things.

The *Employment Formalization Programme (PFE)*, also developed by Mexico, facilitates the registration of informal workers to IMSS and encourages the voluntary insurance of self-employed workers to IMSS.⁵⁴ In addition, given that many informal workers carry out their activities as self-employed workers on behalf of federal or local public organizations, the PFE seeks to promote their registration to IMSS, by inviting these institutions to affiliate them. Likewise, the Programme aims to formalize the employment of all the workers of suppliers and private entrepreneurs using contracts at the federal and local public administration levels.⁵⁵

In Mexico, there are specific programmes within the different federated states that aim to formalize employment. Examples include Hidalgo, Querétaro and Chihuahua, which have made efforts to formalize self-employed workers in the public transport sector. In the state of Hidalgo, 400 workers are said to have been formalized. Along the same lines, there are plans to regularize the situation of 1,534 informal municipal workers. In Querétaro, the Q-Network, which aims to improve the efficiency of public transport, has enabled 2,000 drivers to be formalized and registered with the IMSS. In Chihuahua, the new public transport system, Vivebús, in place since 2013, has led to the formalization of 1,056 drivers' jobs whereas before none of them had a contract and over 80% had no social security cover.⁵⁶

In Costa Rica, small enterprises benefit from a preferential income tax rate (Law 7092) and exemption from corporate tax (Law 9024 on corporate tax). To take advantage of the latter exemption, the company must be registered with the small business register of the Ministry of the Economy. This register only issues certificates to enterprises that are up-to-date with their indifferent obligations, thereby reinforcing formalization.⁵⁷

The countries of Central America have set up a series of regulatory, administrative and development strategies, focused above all on the economic development of small

⁵⁴ In Mexico, there is a mandatory insurance scheme and another voluntary scheme with the IMSS.

⁵⁵ Programa de Promoción de la formalización en América Latina y el Caribe, *El empleo informal en México: situación actual, políticas y desafíos*, FORLAC-OIT-Oficina regional para América Latina y el Caribe, 2014, p.10.

⁵⁶ *Ibid.* p. 8.

⁵⁷ FORLAC/OIT, *Políticas para la formalización de las micro y pequeñas empresas en Costa Rica*, FORLAC/OIT, 2014, p. 14

enterprises.⁵⁸ Similarly, these countries have made enormous efforts to promote the productive development of the small enterprises that create a large part of jobs, many of them of poor quality and under conditions of informality. In certain countries, even though some progress has been made, the levels of informality remain higher than the average for Latin America. Informality in the countries in question is on a very large scale and extremely heterogeneous. However, they share at least one common characteristic: a high level of own-account or self-employed working and unpaid family working that represents almost 50% of the workforce. Formality (assessed on the basis of people benefiting from sickness insurance) is almost non-existent in these segments of the market. The other half of the workforce is made up of labour relationships involving paid or waged workers, with a degree of formalization that increases with the size of the enterprise. The role of micro-finance remains predominant among the micro-economic policies used in these countries. Specific policies or actions are also necessary in the sectors dominated by self-employed workers and family enterprises, where the majority of the informal sector remains concentrated (in particular in rural areas).⁵⁹

1 - Employment Formalization Programme Outcomes

Informal employment is characterized by a juxtaposition of and confusion between functions. The same person can be at the same time and at different stages a waged employee, a self-employed worker or an informal employer. In addition to this juxtaposition of roles, there are also formal employers who use informality by means of fraudulent subcontracting or hiring false self-employed workers.

The two Mexican programmes mentioned above (PS and PFE) have several disadvantages. First of all, the type of jobs or the informal workers targeted by these programmes are not identified. Secondly, they are not subject to any form of permanent evaluation. Thirdly, the federal government and the State governments have not made any effort to formalize all the workers occupied by the public administration, who have no access to social security or other social benefits. Although the rate of informal employment has fallen from 60% to 57% in four years, it is not certain that this fall is due to the federal or State programmes in favour of employment formalization. Indeed, changes in budgetary policy have forced many people to regularize their financial situation and consequently their professional situation.

Most evaluations of informal employment do not cover all the formalization policies. They merely attempt to measure the impact of the specific programmes in the countries concerned or in a few regions in particular. The *Comisión Económica para América Latina y el Caribe* (CEPAL), author of a global report on the outcomes of employment formalization policies, emphasizes - quoting a World Bank IFC study conducted in several countries in the region - that for entrepreneurs who have opted for formality, the main reasons are: to avoid fines for breaking the law or bribes. The advantages only appear in fourth position, namely gaining new customers or markets for enterprises. This seems to suggest that the advantages of formality are by no means obvious for small enterprises: *"This is important*

58 L. Deelen, (ed.), *Políticas para la formalización...*, op. cit.

59 J. Chacaltana, *Experiencias de formalización empresarial y laboral en Centroamérica: un análisis comparativo en Guatemala, Honduras y Nicaragua*, Santiago de Chile, Naciones Unidas, CEPAL, 2009, p. 73.

*because, if the advantages are very small, continuing to reduce the costs of formality will not make it more attractive”.*⁶⁰

In analysing the outcomes of the different types of measures introduced in Latin America intended to encourage the formalization of informal employment - such as the declaration of workers to social security, the simplification of enterprise registration procedures, the regularization of informal ownership, the *monotributo*⁶¹ and the creation of a one-stop shop, the institutional reinforcement of the labour and tax inspectorates, as well as the impact of microeconomic policies to formalize informal employment - it has been found that not all the measures necessarily achieve the expected results. The advantages that they produce do not make up for the disadvantages resulting from the high cost of formality.⁶² On the other hand, low pay rates in the formal sector, limited compliance with labour regulations and the low level of vocational training of many workers in the countries analysed are a permanent incentive to work informally.⁶³ Finally, concerning false self-employed workers, it is also vital that the State take the necessary measures to oblige enterprises to comply with the legal requirements.

60 D. Martínez, *Políticas Activas de ...*, op. cit., pp. 30 y ss.

61 The Monotributo is an integrated, simplified tax regime which consists of paying a fixed monthly charge which concentrates in one levy income tax, value added tax (VAT), contributions to the public and SIJP pension schemes and contributions to the national sickness insurance scheme.

62 D. Martínez, *Políticas Activas de ...*, op. cit., pp. 55 y ss.

63 J. Weller (comp.), “Elementos para el perfeccionamiento de la institucionalidad...”, op. cit., pp. 133 y ss.

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