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**Informality and Labor Reforms in Ecuador in
the decade 2007-2017. Before and After?**

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List of Acronyms

RISE	Simplified Tax Regime
INEC	National Institute of Statistics and Censuses
ILO	International Labor Organization
FORLAC	Program for the Promotion of Formalization in Latin America and the Caribbean
ENEMDU	Household and Employment National Survey
WIEGO	Women in Informal Employment Globalizing and Organizing
LORTI	Organic Law of the Internal Tax Regime
IVA	Value Added Tax
ICE	Special Consumptions Tax
SRI	National Tax Authority
SBU	Unified Basic Wage
BCE	Central Bank of Ecuador
IESS	Social Security Institute
BIESS	Bank of IEISS
LOSEP	Organic Law of the Public Service
LOSSCA	Organic Law of the Civil Service and Administrative Career

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Abstract

Since 2007, in Ecuador with the arrival of the government of former president Rafael Correa a clear agenda to formalize long-time existing precarious work modalities and labour relations was established. Along the period, six were the important enacted reforms, policies and actions that targeted informality within the formal and informal sector for salaried, own account, domestic and home workers. Reforms indeed achieved to some extent to decrease informality (by means of extending social security affiliation coverage and granting more permanent working modalities). However, in the long run informality stagnated and reforms were no longer effective.

This paper explores the characteristics of informal employment and informal sector in Ecuador and the factors that refrained informality from decreasing further than expected, with the positions that both employers and workers held towards the formalization process. The study conducted desk research and first-hand interviews with workers from labour union organizations, employers from the economic sectors of agriculture, flower sector, construction, textiles, industrial manufactures and electrical appliances; and employment consultants.

The research's outcomes show that informal employment and informal sector's characteristics are similar to other cases studied worldwide, with low education, mostly concentrated in non-agricultural activities, worker's age average from 25 to 44 years etc. Nevertheless, informality holds a more elastic nature and the stagnation obeys to deeper constraints and new ways of "bending the law" that employers figured to comply partially with reforms. Reforms departed with initial great expectations from workers, nonetheless, at the end both employers and workers agree that reforms were inefficient and imposed. In this context, policy makers have a challenge and key role for further labour policy design.

Relevance to Development Studies

To have employment is not the only concern, but to have a decent, recognized, secured and formal way of employment is an undeniable need, specially in developing nations. In that sense the role of government policy within labour market is fundamental to achieve better employment conditions, moreover with the already linkages between decent employment with growth, inequality management and poverty alleviation, hence development. For that reason, it is important to understand the nature of informality and the process of formalization reforms and policies to improve development indicators and to effectively develop a strong institutional framework to fight inequalities and restore worker's rights.

Keywords

Informality, informal sector, informal employment, reforms, escape, legalist.

Chapter 1 Introduction

Since the year 2008, the government of Ecuador established a clear agenda to address the issue of Labor Informality. The governance plan under the philosophy of *Buen Vivir* was committed to "Guarantee stable, fair and dignified work in its diversity of forms" (National Secretariat for Planning and Development 2009: 271). However, not all workers managed to achieve formalization of employment, given that enacted labor reforms were not agreed upon, did not consider further impact and failed to capture the dynamism and flexible interaction between the Formal and Informal Sector.

Six important labor reforms, policies and actions were implemented through the decade 2007-2017 targeting different workers groups. In 2008, Mandate Number 8 prohibited labor outsourcing and the modality of hiring workers per hour; and the Simplified Tax Regime (RISE) was created to facilitate the payment of taxes by informal sector traders. In 2011, Non-Affiliation of salaried workers to social security was penalized upon popular consultation. Since 2009, Labor Inspectorates were subject of a Restructuring-Strengthening process to ensure compliance with the norms. In 2010, the "Dignified Domestic Work" Campaign was promoted at the national level to raise awareness of rights within that sector. Finally, in 2015 the "Law of Labor Justice" on one side reformed the Labor Code to empower indefinite work contracts to guarantee stability for workers, and on the other side included homemakers (unpaid domestic work) to the social security system.

Results show that reforms somehow achieved their purpose, and Informality indeed decreased in the decade, with nearly 3'200.000 workers covered by social security in 2017 and when the employed in the Informal Sector passed from 45% in 2007 to 44% in 2017. However, as per figures from (INEC 2017), still half of the Working population perform under informal employment (about 55% lack social security affiliation and within temporary modalities). Moreover, workers failed to effectively transit to the Formal Sector at some point, when around 53% of the originally informal, remained unaltered within that Sector. In overall terms, and according to ILO figures, Ecuador remains within the average for informality at the regional level.

At the National level, the attention and released information has generally focused on employment and unemployment. Nevertheless, before this research, various international organizations have undertaken the study of Informality evolution in the country within some years. As FORLAC¹ launched by ILO in 2014 regarding informal employment, and the World Bank with the analysis of informal microenterprises in 2012. This research paper contributes to these existing studies of Informality by unveiling employers and workers reaction to labor reforms, and explaining what constraints the formalization process found along the decade 2007-2017 that refrained Informality from decreasing as expected. This research paper aims to serve as a guide instrument for public policies on the problem of informality and to the construction of the official indicator of informal employment in Ecuador.

¹ The Program for the Promotion of Formalization in Latin America and the Caribbean

1.1. Research Objective

Labor reforms were one of the most important and acclaimed aspects of the government of Rafael Correa. Nowadays, the actual government of Lenin Moreno has publicly announced possible changes to Labor Law in Ecuador thus reawakening the debate around the mentioned reforms between their continuity or abolition. While it is true that this debate has generated different reactions, society agrees that any process must depart from a more rigorous analysis first. With acknowledgement of these facts, the objective of this research paper is:

- To understand in what ways the actions, reforms and policies enacted by the Government during the decade 2007-2017 affected the nature of informality in Ecuador and what are the factors that prevented informality from decreasing further.

1.2. Research Questions

In line with the stated general objective, this research paper will answer to the following questions:

- In what ways have the enacted reforms, policies and actions to formalize labor in the period 2007-2017, tackled existing labor informality in Ecuador?

1.3. Sub-questions

- How has informality (Informal employment and informal sector) evolved in the period, and what are its characteristics according to demographic, contextual and occupational conditions?
- What has been the position of employers and workers around these reforms and towards the transition to formality?
- What factors refrained informality from decreasing further than expected?

1.4. Methodology and Research Limitations

As this study attempted to explore informality composition in Ecuador and the factors and constraints that the formalization process of labor reforms found within the study period, this research relied on primary and secondary data sources using a Mixed Methods approach of quantitative and qualitative techniques of analysis as the best method for this type of study (Sampieri 2010).

To analyze employment and informality evolution, the research paper gathered quantitative secondary data, from official information sources of Ecuador the Instituto de Estadísticas y Censos (INEC, National Institute of Statistics and Censuses) and the Encuesta Nacional de Empleo y Vivienda (ENEMDU, Household and Employment National Survey) for the national analysis and from International Labor Organization (ILO) for the regional comparison. The chosen timeframe for the data goes from the year 2007 until the year 2017 given that the study focuses in the decade of government of Rafael Correa. The factor that Ecuador lacks an official indicator to measure Informal Employment supposed a challenge for this research, nonetheless by relying on international studies on the topic, the study used “non-affiliation to social security and temporary contracts” as proxies of Informality in Ecuador. The process of data collection and treatment was also a challenge, given the author’s lack of integral knowledge on econometrics and management of statistics software, hence the author contacted a statistic professional to help with disaggregation of data bases and to help in the construction of the employment transition matrixes. It is worth mentioning an ethical issue in the process, as the expert asked the author for discretion with the data panels and not to share many of the data bases with other persons. For reasons of space the calculation methodology of the Tables and Graphs is indicated at the bottom of each one, and for the transition matrixes a full explanation is found in the Appendixes Section.

A documentary analysis from Presidential Decrees, Ministerial Decrees, the Ecuadorian Constitution, journalistic material, and economic and labor bulletins, was used to describe the nature of labor reforms as another suitable research technique for this type of studies (Ferri 2011). Reflecting on the logic of regulations and reforms, the research strengthened the argument, by engaging with empirical evidence from the mainstream schools of thought that explain the reasoning of Informality, primarily with the Legalist approach. In addition to support the findings, the research relied on studies about social protection and minimum wages given their relationship with informality and employment and the importance of information from the actors. The information and findings were analyzed grouping statements intuitively.

Because of time and budget constraints of the author, desk research was conducted instead of fieldwork in Ecuador, nevertheless, to have a primary source of information about the situation of labor reforms, the strategy was to conduct first-hand interviews to the directly affected actors. In that sense, the first step was to contact references from friends and colleagues through emails and phone calls. Once having the names, gathering effective responses was indeed a challenge, from eighteen contacts a total of fifteen answered emails and only ten representatives agreed to effectively hold the interviews. All the respondents were selected by availability and the process was conducted by Skype

on August 2018. The sample comprised two workers from Labor Unions: Confederación Ecuatoriana de Organizaciones Clasistas Unitaria de Trabajadores (CEDOCUT, Ecuadorian Confederation of Workers' Unitarian Class Organizations) and Youth CEDOCUT; six private sector employers, who belonged to the economic sectors of agriculture, flower sector, construction, textiles, industrial manufactures and electrical appliances; and two employment consultants who performed in the public and private sector. The interview format consisted in 12 open questions but having a distinctive approach for each group to fully capture their role in the reforms process and to capture relevant information of every stage.

Chapter 2 Literature Review

It was in decisive transition moments for the world economic order, that the study of the “traditional sector” began to frame what is known today as “Informality”. Arthur Lewis’s *Unlimited Supplies of Labor*² in 1954 and Walt Rostow’s *The Stages of Economic Growth*³ speak about a marginal, poorly paid, low productivity surplus of labor, and a technologically limited, primary and limited capacity traditional sector respectively, present in developing countries. Later, it was ILO, organizing “employment missions” to these countries, and particularly with Keith Hart’s work in Kenya in 1972, that demystified the negative connotation attributed previously to the activities within that sector and despite its limitations accounted it as beneficial to the people within, with a persistent and growing trend (ILO 2013). The documented nature of these activities was unregulated, small scale, selling goods and services, often with family members employed and low income, and their rationale was in response to the incapacity of the formal recognized labor market to absorb this labor force (Tokman, 2007), and officially the term “Informal Sector” was disclosed.

The Dualist approach was also supported by Sethuraman in 1976, Tokman in 1978, Heckman in 1985, distinguished the existence of the Informal Sector as separate unrelated from the Formal Sector. For the dualists informal sector activities are again “marginal”, nevertheless are a source of income for the poor (Chen 2012). The persistence of this activities is attributed to poor individual’s skills and imbalance between economic growth and labor supply (ILO 2013). However, in 1986 Ernesto Kritz, criticized this vision for being limited and biased and begins with the study of the interactions and heterogeneity between the formal and informal sectors (Enríquez 2014), thus contributing with the first steps to understand informality within the formal scheme.

By then, the discussion around the phenomenon of Informality was gaining position. In the upcoming years, the world economy organized production of goods and services, and economies of scale gave birth to per-hour, job or service and outsourcing practices, thus exploited labor force served the capitalist production to decrease costs and raise productivity (Chen 2012). It was then, that the Structuralist approach, supported by studies from Moser in 1978, Castells and Benton in 1989 and Shauffler and Alejandro Portes in 1993, address Informality as a problem of “structural” factors. In that sense, poor workforce skills and surplus, rigidities and lack of growth of labor demand play as entry barriers to the formal sector. (Enríquez 2014). In the first place, structuralists explain that the surplus of labor force, mainly present in primary economies, is caused by high natality rates, urban-rural migration and family incorporation to production this workforce. On the other hand, lack of capital investment and the flourishing of economies of scale are responsible for the poor growth of employment and the insufficient labor demand; while weak public policies favor informal activity. As (Portes 2004) summarizes, individuals within this sector work in precarious forms, lacking contracts and social protection, often in street work, low

² See the Dual-Sector Model: Labor transitions between the traditional sector and the capitalist explain countries economic growth.

³ Stages of Growth Model: Economic growth happens in five stages: from Traditional to Transitional society, Take-off, technological maturity and High Mass Consumption

education and income and virtually non-existent work opportunities. And what is more, these characteristics accentuate with time deepening the differences between the informal and formal sector.

Despite former periods already laid the groundwork of Informality, an upcoming perspective was about challenge the preconceptions of “survival” nature of informal activities. In 1989 Hernando de Soto, gave birth to the Legalist School of Thought, upon his own research done in Peru. De Soto’s *The Other Path* in turn refers to the body of the State as “Rigid, hostile and excessively regulatory”, hence attributes the existence of Informal activities to “Institutions” understood as established norms and regulations from the state and enterprises. In that sense, as Longhi states, the legalist logic argues that, it is legal regulations, agreements and impositions, work designs and frameworks, complicated bureaucracy and tax burdens that make individuals to choose for not complying (as quoted in Enríquez 2014: 21). Thus, informality is addressed as an unexpected response but a voluntary decision of individuals after making a cost-benefit analysis, overcoming the already seen structuralist paradigm. Legalists elaborate further on the factors that increase informal activity. One of them is “entry barriers” to already occupied markets because of high costs, monopolistic businesses and again state regulatory burdens. In that sense as per (De Soto 1989) informality is positive and even desirable as it constitutes the force that frees the market. On the other hand, the costs and contributions of complying with norms in the formal sector are higher, hence individuals have a more available option in the Informal Sector (Bromley 1990). Lastly, the Legalist approach is somehow consistent with the Structuralist seen before, as it states that enterprises pursuing to maximize profits incur in outsourcing practices of labor force to make production costs lower, hence informality within the enterprise flourishes (Enríquez 2014).

(Chen 2012) mentions a fourth wave of economic thought, called “Voluntarist School”, which supports somehow the legalist reasoning on the escape to Informality, although not because of excessive regulatory schemes but merely after an individual cost-benefit analysis. Nonetheless, they state that the Informal Sector must be subject of control because it represents an unfair competition to the Formal.

The explanations about the informal economy, were put in place but still somehow mutually exclusive, Exclusion on one hand by market and structural factors and Exit on the other from regulations and costs. Both approaches by themselves proved how multifaceted was the Informal Economy worldwide, hence in the upcoming years several efforts were undertaken to treat escape and exclusion together as complimentary understandings.

In that sense the first step was to reconfigure the definition of “Informal Sector”. The definitions by the International Conference of Labor Statisticians in 1993 accounted the “Informal Sector” "a set of units dedicated to the production of goods or services with the primary purpose of generating employment and income for the people involved." (ILO 2013: 16). Nonetheless in 2003 the Conference expanded the comprehension accounting “informal employment” out of merely the Informal Sector (Chen 2012) and (Husmanns 2004).

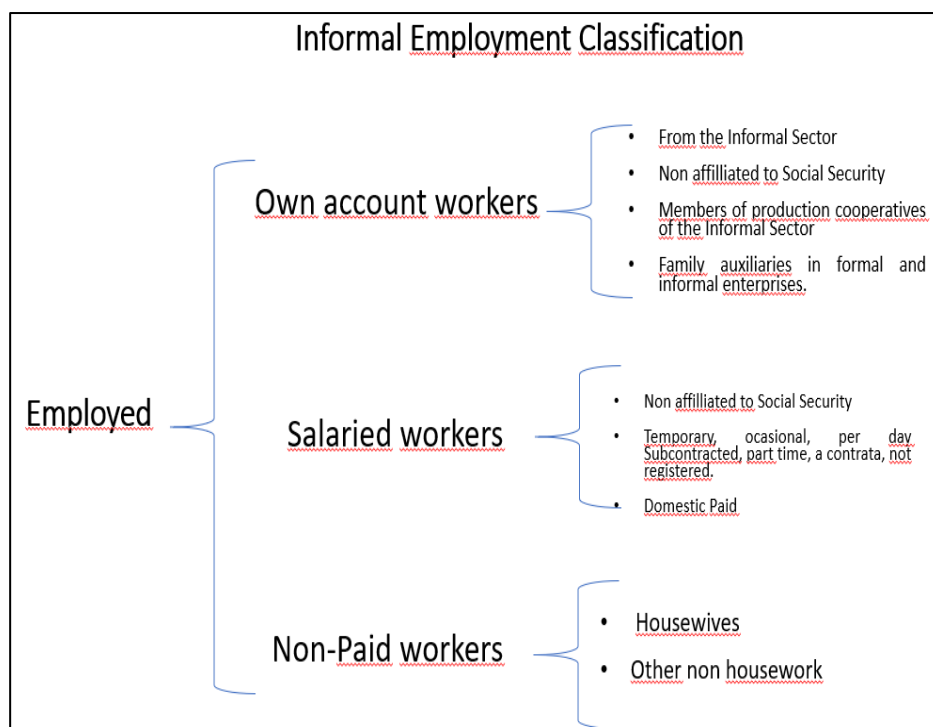
As part of the network of contemporary researchers on informality, the organization Women in Informal Employment Globalizing and Organizing (WIEGO) contributed to the understanding of informal employment bringing

to the table two terms that were not mentioned by the initial schools of thought: poverty and gender. According to WIEGO, social norms, especially gender and the traditions of hereditary occupations, explain why most homeworkers and unpaid workers are women and most informal employers are men (Chen 2012).

Although now more integral, in turn, labor informality demanded to be even more carefully studied. In that sense, WIEGO also developed a new model of informal employment tested in Central America, India, Egypt and South Africa, which proved that “the risk of belonging to a poor household increases and income decreases the lower the worker's employment situation” (Chen 2012: 8).

The developed model together with prior work done by ILO contributed to disaggregate the informal employment component in different categories based on two aspects (See Figure 1): the condition of the worker (Salaried or Own- account), the conditions in employment and the access to social protection in both formal and informal sectors. (Perry 2007: 22) clarifies what individuals pertain to these categories: For own account work, as artisans, handymen, construction laborers, taxi drivers, and street vendors. And among the Salaried as domestic employers, non-paid family workers and those who work under informal arrangements.

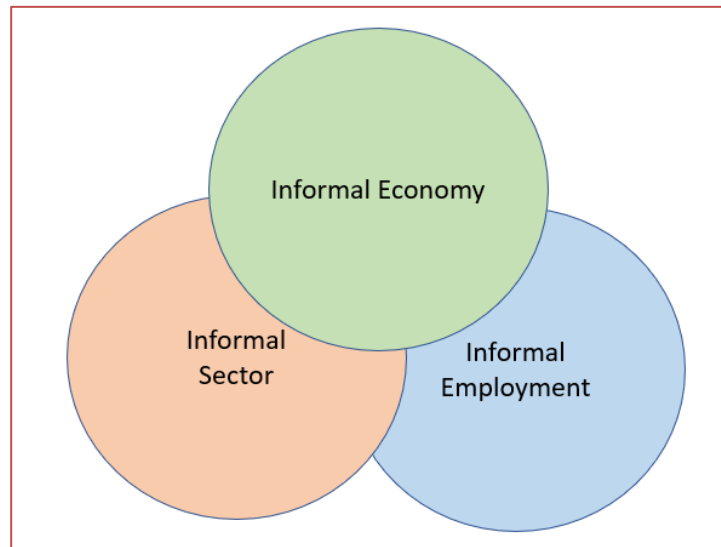
Figure 1 Informal Employment Classification



Source: Own elaboration based on (Chen 2012)

Altogether, as seen in Figure 2, Informal employment (lack social protection and poor employment conditions) and Informal Sector (enterprise view), comprehend what is understood as the Informal Economy.

Figure 2 Informal Economy



Source: Own Elaboration

As part of the Holistic wave of understanding Informality, in 2007, authors Guillermo Perry, William Maloney, Omar Arias, Pablo Fajnzylber and Jaime Saavedra in *Exit and Exclusion*, elaborate deeper on Informality. As per (Perry 2017) one of the factors that explain the informal component is Employment, when individuals prefer to undertake own-account initiatives to gain more flexibility or for perceiving a better income or when individuals are incapable to enter a formal job. As, as per their criteria, also micro enterprises are affected either by their own lack of perspectives of growth and by entry barriers (Chen 2012), and in addition enterprises deliberately avoid registering their workers and compliance with other regulations.

Finally, and to route this work towards the investigation of Informality in Ecuador it is important to highlight the notable efforts of Perry and co-authors when studying cases of Latin American countries, where in overall a coherent framework is built in harmony with the former schools of thought, as they disaggregate the Exit and Escape variables. As they explain on the Exclusion side, it is a segmented labor market, high entry costs and enterprises contract modalities what refrains workers from reaching formality. And on the Escape side, evasion from all the regulations described in the Legalist Approach, is labeled as “opportunistic, defensive or passive” (Perry, 2007).

Following the escape and evasion line, Ravi Kanbur in 2009 brought a framework addressing the conditions that individuals hold while being Informal or Formal; either formalizing workers partially or not at all, or remaining under the umbrella of laws while not complying, or somehow changing the activity to escape the regulation (Chen 2012).

According to (ILO 2014: 1) "Economic growth is essential to generate more jobs of better quality, but it is not enough. To reduce informality, deliberate and integrated policies and actions must be put in place, that articulate both the economic and socio-labor ones and complement economic growth, within the framework of a sustainable dimension of development", thus addressing infor-

mality still as decision taken once. Nevertheless, conscious that Informality today is a matter still complex to address, and demystifying Informality as a two-extreme decision merely, this research makes an echo in consistence with the legalist approach of state institutions, and thus highlighting the existence of a “gray area”, or flexible degrees of compliance that individuals can have towards Informality.

Chapter 3 The Reforms, Policies and Actions

According to (ILO 2014), in Latin America and the Caribbean, the process of reducing Informality has been achieved through the implementation of specific policies that targeted specific areas depending on each country. These undertaken policies have gone from Productivity, Norms and Incentives to Fiscalization. As Ecuador is one of these countries, in this section the present research will introduce six specific reforms, policies and actions that the Government of Rafael Correa enacted in the decade 2007-2017 towards formalization.

3.1. Mandate Number 8

Labor Outsourcing was introduced as such in Ecuador in 1988, and with the “Maquilas Law” in 1990, Temporary contracts (per hour and seasonal) arrived. Later in 2006 with the “Law for Economic Transformation” that introduced the “plurifunctional worker” category, outsourcing modality was legally ratified (El Telégrafo 2017).

According to (FLACSO 2008) enterprises found there a good way to evade vacation payments, registration and affiliation of workers to the social security. It is estimated that around 4654 outsourcing companies operated in Ecuador, from which only 500 were registered; most were “ghost companies” The situation became untenable in 2005 and workers organized themselves to denounce these abuses.

In that sense, in 2008 the National Assembly approved the Constituent Mandate Number 8 which was meant to "eliminate outsourcing and generalized labor intermediation, per hour contracts, and all the practices of precariousness of labor relations " (Executive Decree #1121 2015: 4). Intermediation companies should disappear, and the main company was obliged to hire directly the intermediated workers, with a one-year contract; after that period the contract could be terminated if the employer decided.

The worker should maintain the same functions that performed when outsourced, otherwise workers were entitled to report it to the authorities and receive a compensation. In addition, an Executive Decree stated that "The main company is obliged to recognize the seniority of the worker who was outsourced by the time he worked for mentioned company" (as cited in Zambrano 2008: 2).

“The concealment of labor relations into those of different nature simulating civil or contractual relations” was forbidden (Sigcha 2008: 3). Nevertheless "complementary services" in areas of (surveillance, health, cleaning, messaging and food) and other categories such as specialized technical services were still allowed.

It is presumed that before the approval of the Constitutional Mandate number 8 in Ecuador there were more than 1.000000 outsourced workers and after this measure about 200000 were hired directly in both public and private companies (Cano 2009: 297), the rest is presumed were fired.

3.2. Simplified Tax Regime (RISE)

The idea of creating an additional tax regime in Ecuador was conceived by previous governments, with intention to cover the existing fiscal deficit by broadening the taxpayer basis including the less visible sectors. However, as per (Serrano 2010), the project never materialized given the lack of social benefit purpose.

In 2008 the new government, through the Ley Orgánica de Régimen Tributario Interno (LORTI, Organic Law of the Internal Tax Regime) the Simplified Tax Regime (RISE) was created. The main objectives were: To improve the tax culture among informal entrepreneurs and merchants and incorporate them into the formal economy, as well as to simplify the payment of taxes and reduce formalization costs. (Rodríguez 2011). Under RISE, the IVA⁴ and ICE⁵ contributions are replaced for a minimum monthly payment of taxes for these groups, based on the individual's economic activity and their annual or monthly income, available for individuals with less than 60000 dollars income and not for financial or not manual activities.

Moreover, RISE incorporated accessibility advantages with less requirements, not requesting companies to explicitly have accounting books, nor complicated tax returns, saving costs previously handled by “tramitadores”⁶. To incentivize microentrepreneurs, it granted discounts of up to 50% in their monthly payments for each new worker registered and affiliated with social security (Serrano 2010).

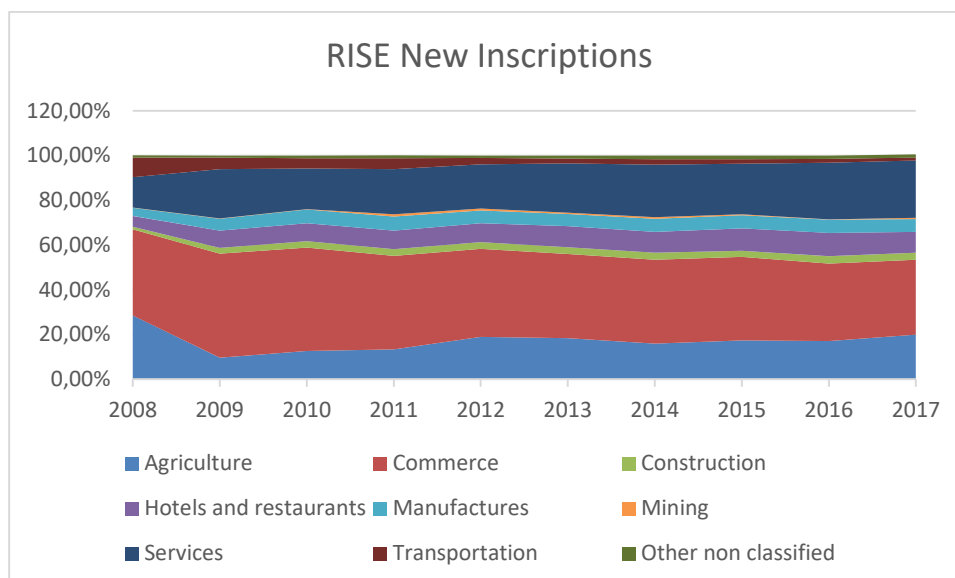
For achieving results, the Servicio de Rentas Internas (SRI, Tax Authority) began campaigns to raise awareness and disseminate information about the benefits of adopting the regime, and more SRI facilities were created as the enrollment rate increased. As seen in Table 1, in 2008 when RISE started operations, there were 113,000 registrations, reaching around 157,000 newcomers in 2012; and most newcomers belonged to Trade activities, Services and Agriculture. Although in the transport sector, home to many informal taxi drivers, decreased over the years.

Table 1 RISE New Inscriptions

⁴ Impuesto al Valor Agregado (Value Added Tax)

⁵ Impuesto a Consumos Especiales (SBU

⁶ People in charge of making processes of documentary paperwork, often informal as well.



Source: SRI 2007-2017. (The data does not report withdrawals from the RISE).

3.3. Improving of the Social Security System and Penalization for Non-affiliation of Salaried and Domestic workers.

Since 2008, with the *Buen Vivir* scheme a more sustainable and universal approach is promoted for granting access to social security, involving traditionally excluded sectors such as domestic workers, non-paid family workers, own account workers, rural population, young people at risk, migrants living abroad, disabled, elderly and special groups regardless of whether they perform a formal or productive job. (Lucio, n.d). The goal was to improve affiliation culture and to reduce uncovered employed population.

The Ecuadorian Social Security System is contributory and consists of a Voluntary and a Compulsory affiliation scheme. The Voluntary attends more certain sectors with limited income that for various reasons cannot access the Compulsory (including lack of a stable job), thus being the most viable option to access social security for Own account workers and other informal (street vendors, recyclers, etc.) by means of a percental contribution of 9.74%. Within this system Voluntary Affiliation was made “more attractive” by extending health coverage for the children and spouses of the affiliated members, also improving the infrastructure of the public facilities and building partnerships with private hospitals and clinics for giving some services, and in addition, with the creation of the Banco del IESS (BIESS, Bank of IESS) in 2009 to grant loans

for the affiliated (El Telégrafo 2013). The Compulsory Scheme⁷ attends to Salaried workers and its contributions are composed in two parts: one from the employers and another from workers themselves, according to the wage and percentages vary depending on the type of worker and the economic sector⁸, in no case less than the Salario Básico Unificado (SBU, Basic Unified Wage) (Cadena 2015).

In 2011, given the low compliance with the Compulsory scheme, after popular consultation, the Comprehensive Criminal Code defined as a “criminal offense” the Non-Affiliation of Salaried and Domestic workers, and applied economic sanctions that go up to (twenty minimum wages).

According to (IESS 2010), affiliation increased, and for 2010, around 60% of new affiliations came from the private sector, 15% from the public sector and in smaller amounts self-employed workers and volunteers; and according to (Cadena 2015) it happened mainly due to the inspections carried out to monitor compliance and to the campaigns to disseminate information on labor rights.

3.4. Law of Labor Justice and Recognition of Non-paid family work

Considering excluded society groups and work instability that prevailed in Ecuador, in 2015 the Ecuadorian National Assembly approved the Law of Labor Justice and Recognition of Family Non-paid work. The law had five specific aspects, some of which caused controversy⁹, however, three are relevant in terms of labor formalization 1) The incorporation of indefinite contract modality plus the regularization of the per-hour contract to achieve more stability 2) The Recognition of Non-paid family workers and incorporation to the Social Security System. (Lanas 2015) Ineffective dismissal clause in cases of pregnancy.

In the Labor Code prior to the reform, the labor contract lasted for one year and was usually renewed for another year, period after which the employer could decide to dismiss the worker or hire indefinitely (Lanas 2015: 7). With the reform, the employment relationship became indefinite immediately after the 90-day regulatory test period, except for “per job or service” modality, temporary and apprenticeship contracts. In a way to bind employers to a more fair labor relationship Article 16 stated that, “the employer is obliged to rehire the same workers who worked on “per job or service” previously, as he needs them on a new occasion within a period of 1 year, and only after this period he is enabled to hire new workers, otherwise the “ineffective dismissal” proceeds ” (Lanas 2015: 8).

Introduced onto the Social Security Law, for first time in history, homemakers could join the social security system to have benefits as a retirement fund at an elderly stage or after twenty years of contributions. Access was granted with simplified procedures and under the logic of ordinary groups affiliated, this

⁷ Compulsory affiliation has a special regime for Social Insurance for Peasants, the Armed Forces and the Police, managed by the ISSFA and ISPOL respectively.

⁸ The employer contribution from the public sector is 9,15%, for the private sector 11,15% and of 22,30% for temporary workers in sugar industry.

⁹ Great discontent was caused because the law imposed a limit on workers revenues, monthly proportional salaries and election of labor union committees.

means with a percental contribution by themselves depending on their socioeconomic status and a contribution of the state up to 80% (CEDOCUT 2015).

3.5. The “Dignified Domestic Work Campaign”.

In the Domestic Sector rights have undergone almost unnoticed over the years in Ecuadorian history. In this sense, during in the Government of Rafael Correa with the Law of Defense of Labor Rights and Dignified Work, a minimum wage was established and they were granted the same rights and benefits as other workers in terms of affiliation, hours of work, etc. (Official Registry #105 2010: 3). Moreover, Ecuador adopted ILO Convention 189 on Domestic work as well as several countries in Latin America.

In 2010 the Ministry of Labor started the "Dignified Domestic Work Campaign", that consisted on the dissemination of information on labor rights to domestic workers for their awareness. As part of the operational process 148 mobile attention and information centers were opened in strategic points in the city, both with personnel from the Social Security Institute and the Ministry of Labor Relations, initially covering the main cities and further extended to the other provinces.

Parallely, Labor Inspectorates carried out visits to upper middle-class homes to interview Domestic workers to assess the level of compliance of their employers regarding to domestic workers rights and obligations (in terms of salaries, affiliation, overtime, vacations (Cadena 2015).

3.6. Strengthening- Restructuring of Labor Inspectorates.

Considering the policies, actions and reforms established in the labor sphere, the need to strengthen the Control Authority to ensure compliance was implicit. In that sense, in 2009 the Ministry of Labor started Restructuring-Strengthening process of Labor Inspectorates.

In past years, the scope of the inspectorates was limited to complaints and denounces reception, however, the restructuring approach incorporated a more active service, incorporating visits to homes and businesses to verify compliance with labor standards of the Constitution, Labor Code and awareness campaigns. During the visits, the inspectors are empowered to enter the working place, as well as to review the documents, conduct interviews with the employees, inspect the conditions of the working place, verify the presence child labor, the dissemination of internal work regulations etc. (Pérez, Bustamante and Ponce, 2015)

According to (World Bank, 2012) around 8% of companies claim to have been inspected in that year by both the Institute of Social Security and the Ministry of Labor.

Chapter 4 Ecuadorian Context, Labor Market and Informality

4.1. Ecuadorian context 2007-2017:

Statistic figures contrast the political, economic and social spheres of Ecuador before and after the arrival of the government of Rafael Correa.

At the beginning of 2007, as per (BCE, 2010) there was a high and persistent poverty index (37%), inequality (0,54 Gini coefficient) and slow economic growth. (Oléas and Ricaurte 2010) speak about the great discontent and instability of Ecuador given corruption scandals, financial crisis and political turmoil (which resulted in 4 different presidents within short time period). According to (Gaussens 2006) Rafael Correa arrived in 2008 with a discourse showing a strong, imposing and openly perspective against the neoliberalism, with the slogan of work against capital.

During his government, one of the most self-proclaimed achievements was to have doubled the size of the economy. As per (Briones 2017), the economy grew at an average of 3% annually since 2007 to reach a GDP of more than 96,000 million dollars in 2017. In the same way, (BCE 2017) shows that although inflation maintained a moderate trend, except for 2008. Poverty was reduced by 15% throughout the period and the inequality varied by 0.07%. However, according to (Arévalo 2014), these achievements obeyed in a greater extent to the benefits of having a dollarized economy.

Through a large public expenditure, 30 energetic projects, 4 hydrocarbons, 559 schools were built and under construction, 9 educational universities and institutions created, 85 hospitals in operation and under construction, 93% road network intervened and well-functioning, and as per (El Diario 2017), a visibly more efficient public service apparatus. In the same way (Arévalo 2014 and Ghosh 2012) state that the increase in social spending translated into an improvement in the Human Development Index (IDH), which was above the Latin American average at 83 points. Likewise, assistance programs as the “Bono de Desarrollo Humano” were expanded.

Nonetheless, keeping the economy afloat was a challenge, considering the international crisis of 2008 and 2009, public debt increasing since 2009, the drop of oil prices that caused the recession in 2015 and the earthquake of 2016.

Regarding the economic sectors studied in this research. Construction was one of the most dynamic and the fifth with fastest growth in the Ecuadorian economy. According to (INEC 2017) it expanded operations in terms of size and labor force requirements from 2009 to 2014. However, since 2015 with the economic slowdown and the government’s reduced investment in infrastructure, the sector contracted. To maintain profitability levels had enterprises of this sector had to adjust their structures (UIEM, 2017).

Likewise, the manufacture sector has shown growth through the period, except in the international crisis period in 2009. The growth is mainly attributed to an increase in consumption given the better conditions of the population and an increase in the demand of finished goods and services from other economic sectors as construction. However, according to (INEC, 2016) the implemented

policies towards the Change of the Productive Matrix in the long term and some import restrictions somehow affected the sector. The textile sector is dynamic as well, and according to (Ekos Negocios 2015) is one of the most influential within the labor market (being the second sector that hold most employment).

The agriculture sector has been dynamic as well, given international prices for exports and increase in national production. However, the (Directorate of Analysis and Processing of Information 2016) states that uncertainties due to El Niño phenomenon and the earthquake in 2016 mainly affected the sector.

Flower sector, is one of the activities that generate most income on exports and generates also most employment. However, according to sector representatives argue in (El Telégrafo 2017), the economic slowdown in 2015, a closure of the Russian exports market, a “loss of competitiveness”, increased tariffs that raised production costs, plus the shortage of incentive payments from the Government given oil prices, all affected the sector and derived in the dismiss of nearly 3000 workers and shrink productive areas.

4.2. Labor Market 2007-2017:

According to (INEC 2017), between 2007 and 2017, the public sector employed around 9.1% of the employees nationwide and in 90,1% the private sector. Within this period, from the total Working Age Population, 60% was Economically Active, while only 40% was employed. However, as per (ENEMDU 2017), although no important variations were registered, since 2013 more people entered to the Working Age Population¹⁰.

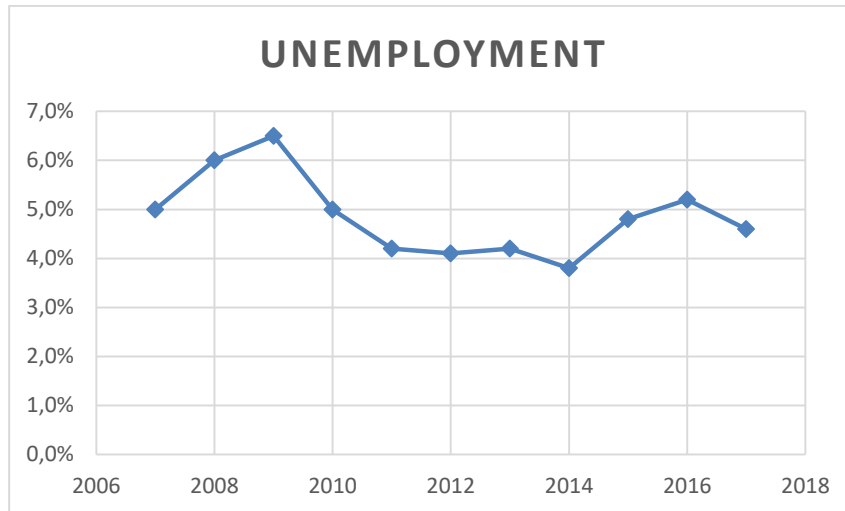
Although this means that employment generation has been almost flat, according to (INEC 2017), woman participation rate in the labor market increased over the ten years, as well as students.

As seen in Table 2, the Unemployment¹¹ figure had two increases in 2009 and 2015-16 (international crisis and economic slowdown periods), nevertheless it averaged 5% within the whole period. According to (INEC 2017) most unemployed in this period belonged to the trade, services and manufacturing sector and in a greater pace in the construction sector.

Table 2 Unemployment

¹⁰ Since 2012, people 15 years and above are considered part of this category, before 10 years and above were considered.

¹¹ Comprised by the Economically Inactive Population (PEI), individuals that were already unemployed, or those who lost their jobs.



Source: INEC (National Institute of Statistics and Censuses)

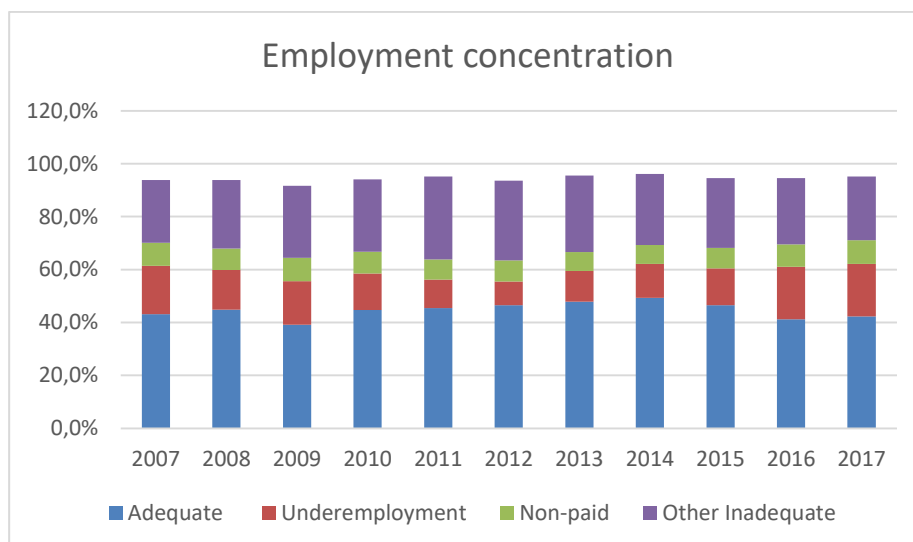
In a closer insight to Employment, Table 3 classifies it within four different categories: Adequate¹², Underemployment¹³, Non-Paid¹⁴ and Other Not adequate. The trends are not marked, nevertheless it is visible that nearly half of the Employment has been Not Adequate. According to (INEC 2017), the increase of Underemployment obeys to the flow of people who came from inactivity and those who lost their jobs mostly consisting of homemakers and students.

Table 3 Employment Concentration

¹² Refers to those people who earn a salary higher than the Unified Basic Wage (SBU) and work 40 hours per week. (ENEMDU 2017).

¹³ Individuals who do not meet any of the mentioned conditions in adequate employment at work but would like to do so.

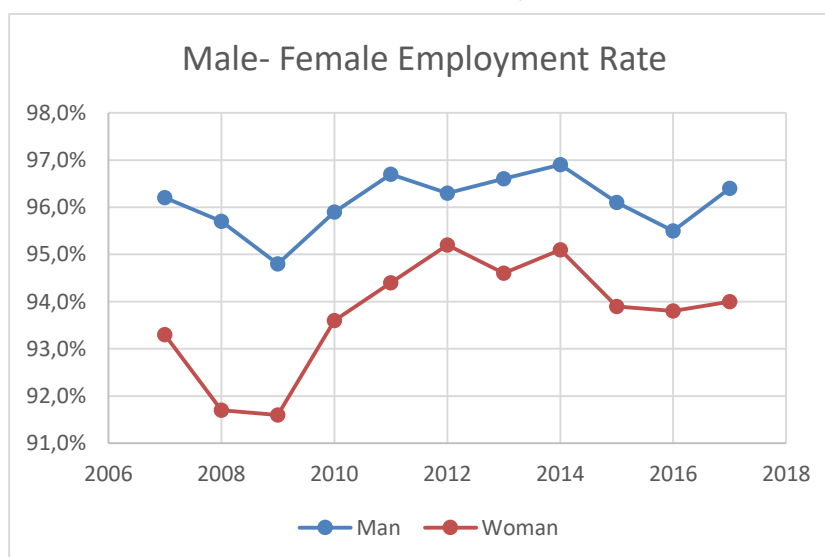
¹⁴ Individuals who do not have an official remuneration for their work.



Source: INEC (National Institute of Statistics and Censuses)

As seen in Table 4, during the period, the global employment rate of men was higher to that of women, but both maintained the same trend. According to (Olmedo 2018: 17) “Men are in better conditions than women and both in urban and rural areas, and they are the ones that enter the labor market more easily”. However, according to García and Cortez, the employment rate of women increased more significantly since the creation of the National Gender Equality Council that worked on projects with a gender focus in the fields of employment, economics, violence, political participation etc. (as quoted in Cadena 2015: 10).

Table 4 Male-Female Employment Rate

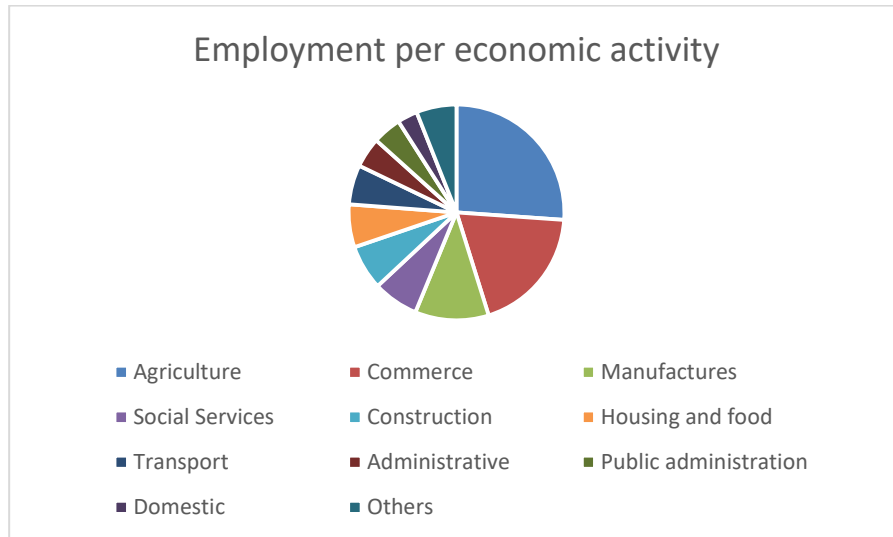


Source: INEC (National Institute of Statistics and Censuses)

According to (ENEMDU 2017), and as seen in Table 5, through the decade, the economic activity that mostly concentrated employment in the Ecuadorian labor market has been Agriculture with almost a quarter, followed by Commerce

and Manufactures (including oil refining), and in lesser proportions social services, education, construction, hospitality, transport, administrative activities, domestic service, communications and others.

Table 5 Employment per economic activity

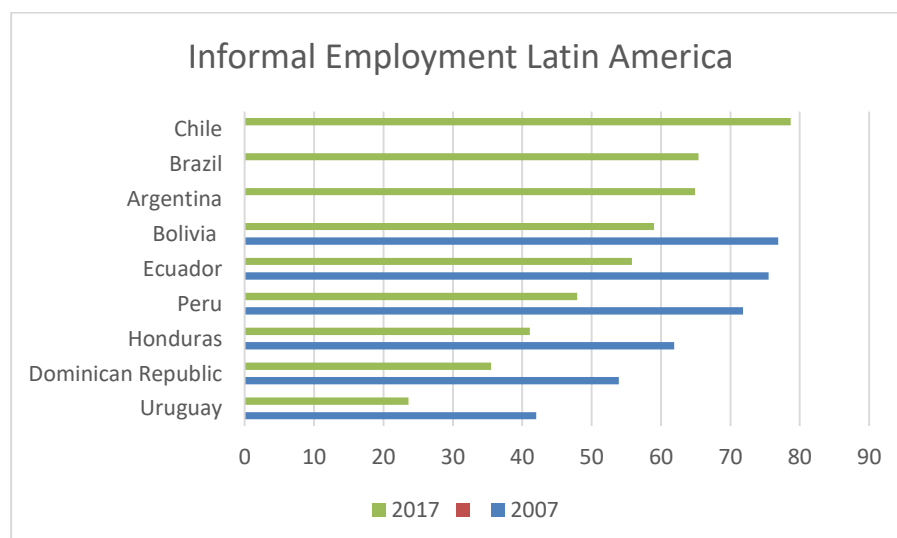


Source: INEC (National Institute of Statistics and Censuses)

4.3. Informality:

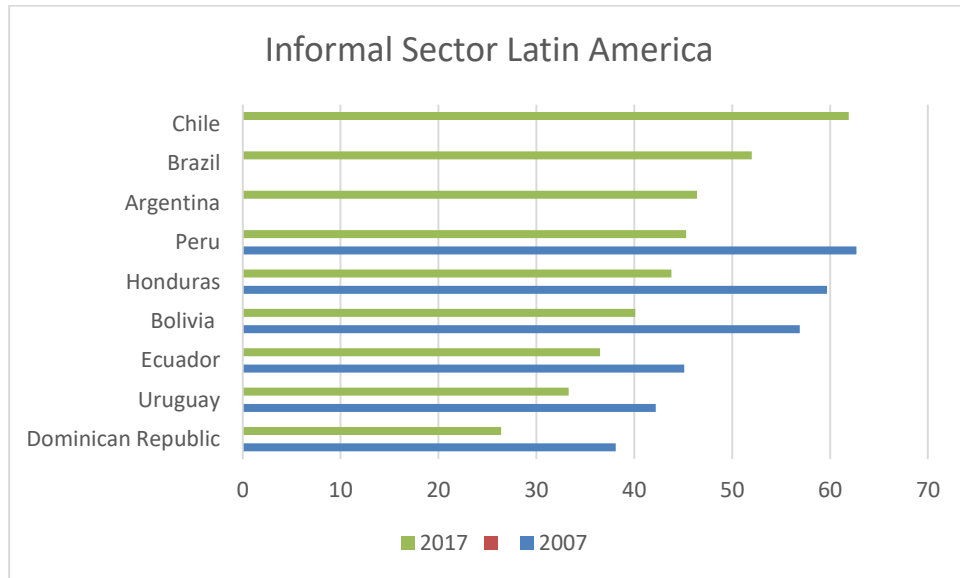
In Latin America in the last thirty years more than 50% of non-agricultural employment has been informal (Vega 2017: 1). In shown in Table 6 and 7, despite reduced Informal Employment and Informal Sector figures, Ecuador stays within the average, among nine countries, and ended in 2017 with around 64% and 40% respectively.

Table 6 Informal Employment Latin America



Source: ILO (Harmonized series). Missing data for Chile, Brazil and Argentina. (Data for the years 2008 to 2016 were incomplete or non-existing)

Table 7 Informal sector Latin America

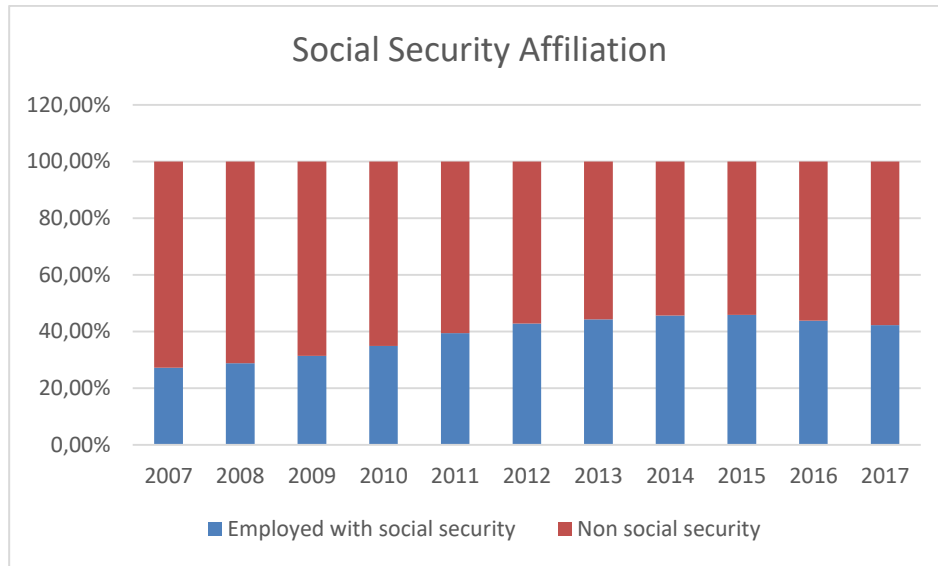


Source: ILO (Harmonized series). Missing data for Chile, Brazil and Argentina. (Data for the years 2008 to 2016 were incomplete or non-existing).

As mentioned previously, up to date Ecuador lacks an official definition and indicator of "informal employment", hence for this research paper, the two conditions (Social Security affiliation and employment modality in temporary jobs) will be used as a proxy to measure informal employment in the study period.

As seen in Table 8 the rate of workers affiliated to Social Security has increased marginally until 2017, passing from around 1'600000 affiliated workers in 2007, to nearly 3'200000 in 2017. However, the most outstanding aspect of the figure is that more than half of the totally employed are still uncovered. Social security coverage for the Salaried Non-Domestic workers and Domestic, grew importantly between 2009 and 2011 (on early implementation stages of Dignified Domestic Work Campaigns and Penalization of Non-Affiliation). However, for Homemakers the increase has been almost imperceptible, and in the case of Own Account workers affiliation rates ended less as compared to the beginning in 2007.

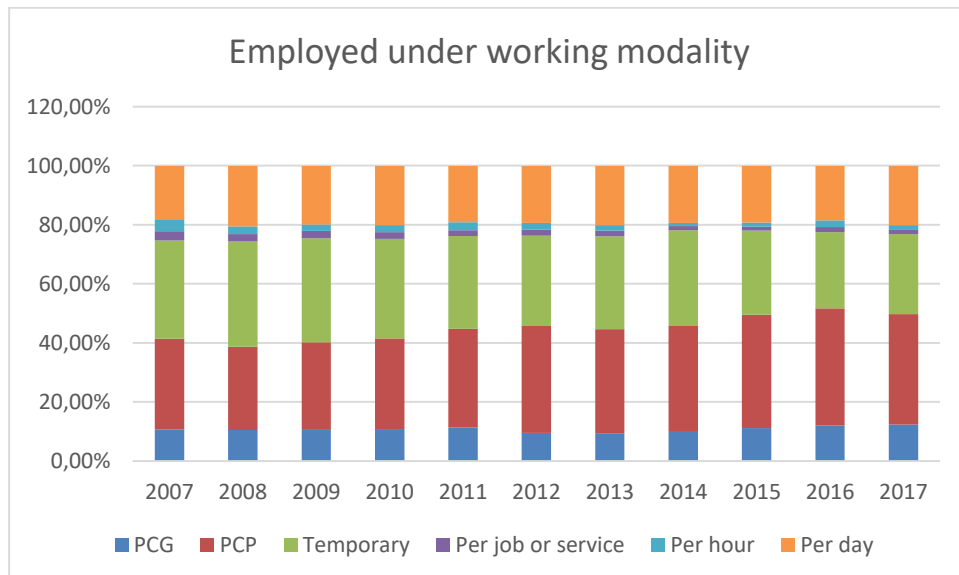
Table 8 Social Security Affiliation



Source: National Institute of Statistics and Censuses (INEC)

According to (INEC 2018: 107) “Permanent contracts are the best working modalities”, for two reasons: 1) Because workers within are not considered out-sourced and 2) Because permanent contracts proceed immediately after the testing period in an indefinite modality. However, in Table 9 we observe that along the decade, nearly half of the totally employed performed under non-permanent modalities (temporary, per job or service, per-hour and per-day)

Table 9 Employed under working modality

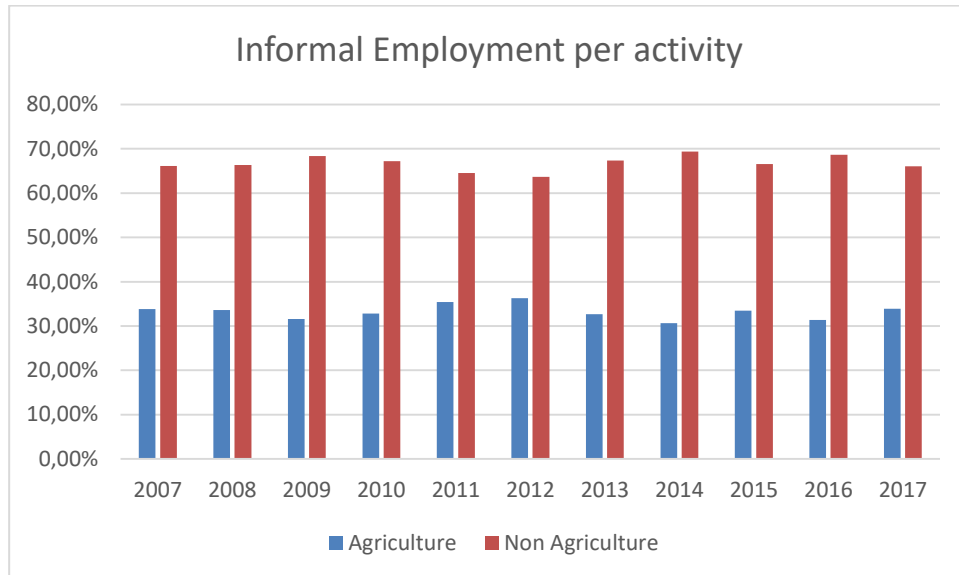


Source: National Institute of Statistics and Censuses (INEC)

In a deeper insight, Table 10 shows Informal Employment concentration through the decade. As per the graph, it has been mostly present in Non-Agriculture activities with almost double the amount in comparison to that of Agriculture, and no significant trend is observed. These results are consistent with

the (INEC 2017) which explicitly states that the activities of construction, trade, hospitality and transport mostly concentrate informal employment. The finding is interesting for the case of Ecuador because the general appreciation that considers Agricultural activities (because of their nature) the ones that hold most of informal labor is indeed challenged.

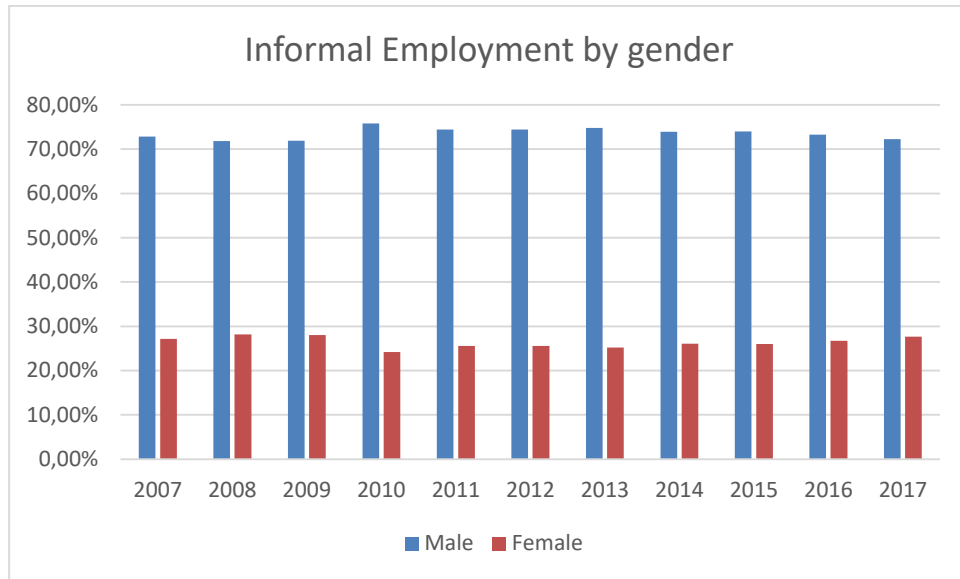
Table 10 Informal Employment per activity



Source: National Institute of Statistics and Censuses (INEC). For the estimation of Informal Employment two conditions were considered (Non-affiliation to Social Security and Temporary work modalities).

Moreover, regardless of the economic sector, as seen in Table 11 men are mostly Informally Employed with around 70%, visibly superior than women that were around 25%. This finding is consistent with the previously seen Global Employment figure, where in general employment of men is superior compared to women. Nevertheless, (Olmedo 2018) explains that women are predominant within Non-Paid work, since these tasks are generally related to household chores, and even in the rural area women’s Non-Paid employment includes domestic work and productive activities not remunerated in the same way.

Table 11 Informal employment by gender



Source: National Institute of Statistics and Censuses (INEC). For the estimation of Informal Employment two conditions were considered (Non-affiliation to Social Security and Temporary work modalities).

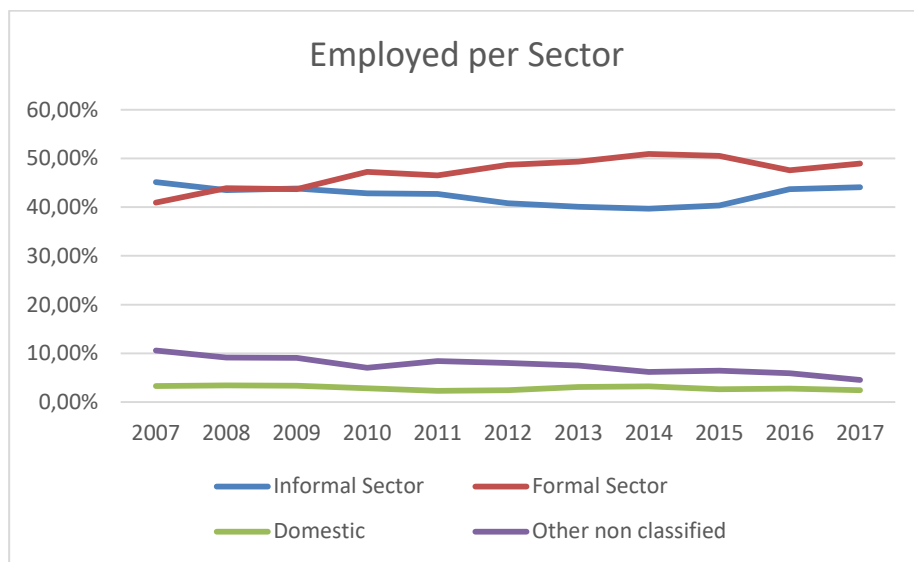
The Informal Sector in Ecuador, similar to other countries, comprehends usually small undertakings or family initiatives lacking an official organizational structure, with a unique business owner or a limited number of workers employed; often using their own housing as facilities and lacking a registered system of accounting or profits. However, according to (INEC 2015) with the current methodology in Ecuador, the Informal Sector is distinguished from the Formal Sector according to a single requirement which is the acquisition of the Contributory Tax Register (RUC) for enterprises or the mentioned Simplified Tax Regime RISE for persons¹⁵.

According to (World Bank 2017) in Ecuador, the average existence of a company in the Informal Sector is relatively short (6 years), likewise (INEC 2017) considers that the probability of survival of companies in Ecuador is greater for those that have larger size, pay average salaries, have more qualified personnel and with a greater range of studies. And although, the Informal Sector usually has low compliance with labor obligations and regulations and economic limitations for the employed within, it somehow generates employment and income. (Canelas 2014) states that low education levels and poor social security coverage plus low wages determine a higher poverty status within the informally employed. Moreover, (World Bank 2012) found that in the case of Ecuador around 70% of the informal sector business owners state that “being independent” is their main motivation to have their enterprise, while only 30% found it difficult to enter formal salaried employment, and in the case of woman the factor that works as an incentive is “flexibility to balance work with household chores”.

¹⁵ The previous methodology before 2015 considered Informal Sector to those that besides lacking tax registration, also were less than 10 employee’s enterprises or lack of official accounting systems.

As seen in Table 12, in Ecuador, while it is true that the Formal Sector is superior than the Informal, and that the amount of Employed in the Informal Sector decreased to some extent, we observe that it is stagnated and in overall terms remains unaltered over the 40%. In other words, nearly half of ecuadorians employed, do so in the Informal Sector with no significant change. According to (World Bank 2012) the stagnation in the period 2009- 2012 obeyed to factors as the level of schooling, the economic cycles, the rigidity of the labor market and poverty. While (Olmedo 2018) states, judging on the experience of several Latin American countries with similar conditions, that the lack of job opportunities in the Formal Sector, the few economic incentives to carry out projects, institutional weakness, excess of procedures to formalize companies are the causes that make it more attractive for people to remain Informal.

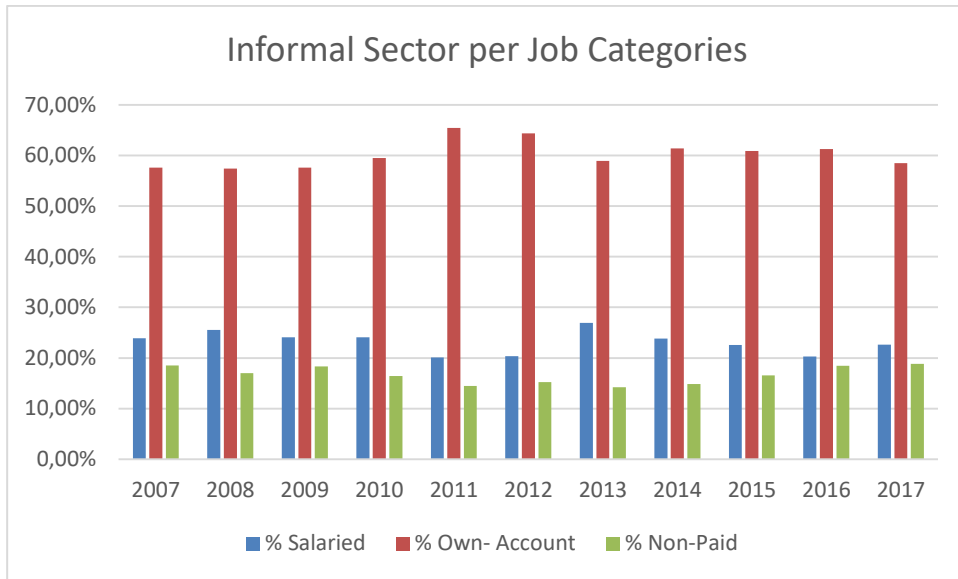
Table 12 Employed per Sector



Source: National Institute of Statistics and Censuses (INEC)

Regarding the characteristics of the population employed in The Informal Sector. As seen in Table 13 Own account employment is the most outstanding category as compared to Salaried and Non-Paid, and once again, the trends do not show significant change during the period.

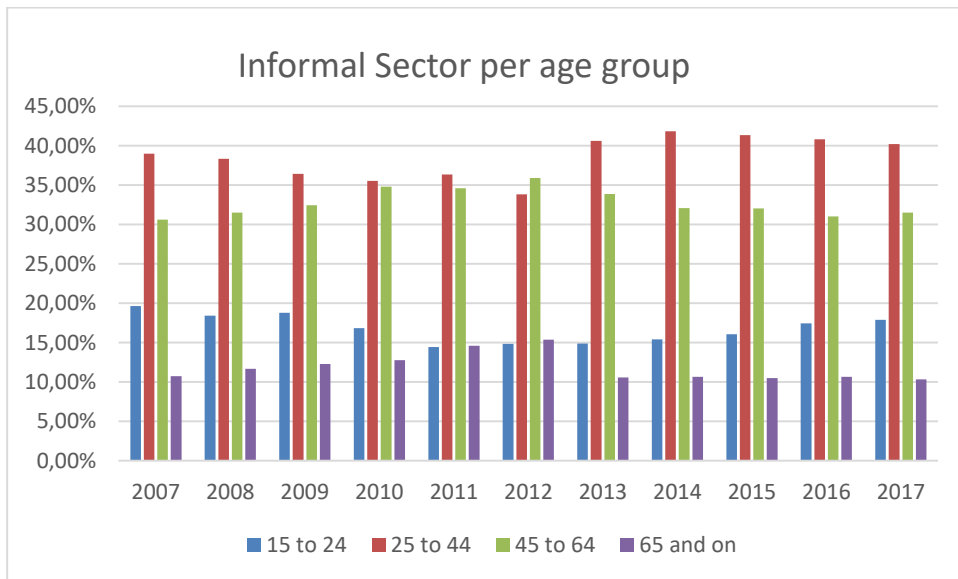
Table 13 Informal sector per job categories



Source: National Institute of Statistics and Censuses (INEC)

In terms of age, as seen in Table 14, people aged 25 to 44 years are predominant in the Informal Sector, followed closely of 45 to 64 aged. In this case a visibly important increase is seen from the year 2012 for the first ones.

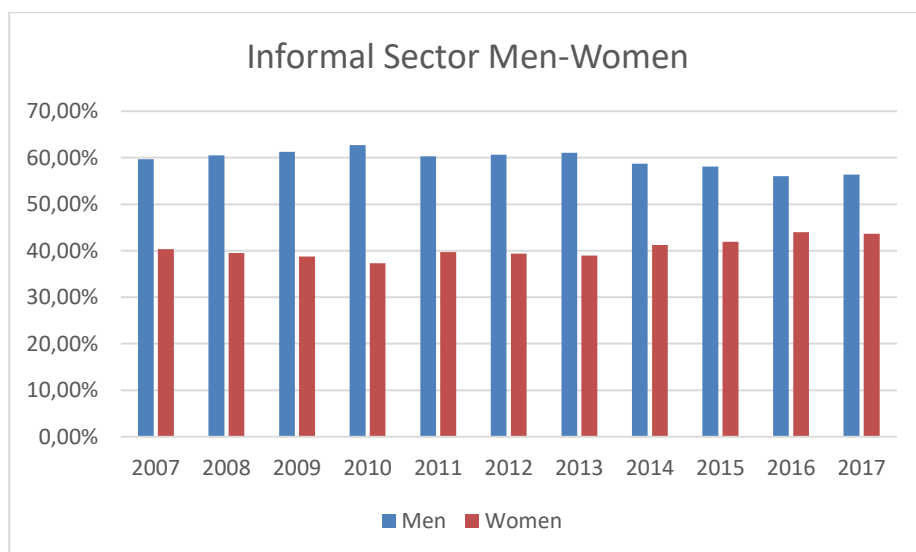
Table 14 Informal sector per age group



Source: National Institute of Statistics and Censuses (INEC)

In consistence with Global Employment and Informal Employment previously seen figures, Table 15 shows that the rate of employment for men within the Informal Sector was higher than the rate of women. Again, the trends reported no significant variation.

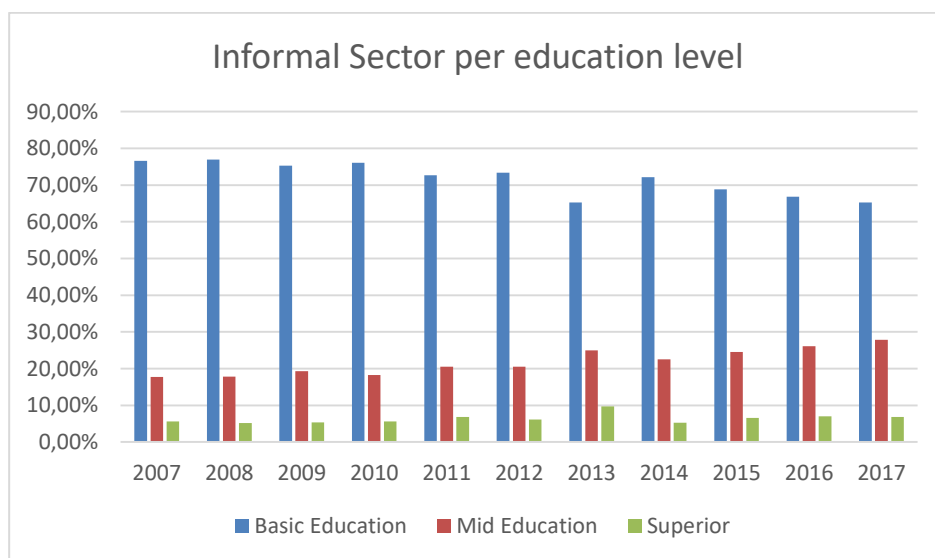
Table 15 Informal sector Men-Women



Source: National Institute of Statistics and Censuses (INEC)

In consistence with the World Bank appreciation, Table 16 shows that most employees in the Informal Sector had only basic education, and in considerably less amount higher mid and superior education.

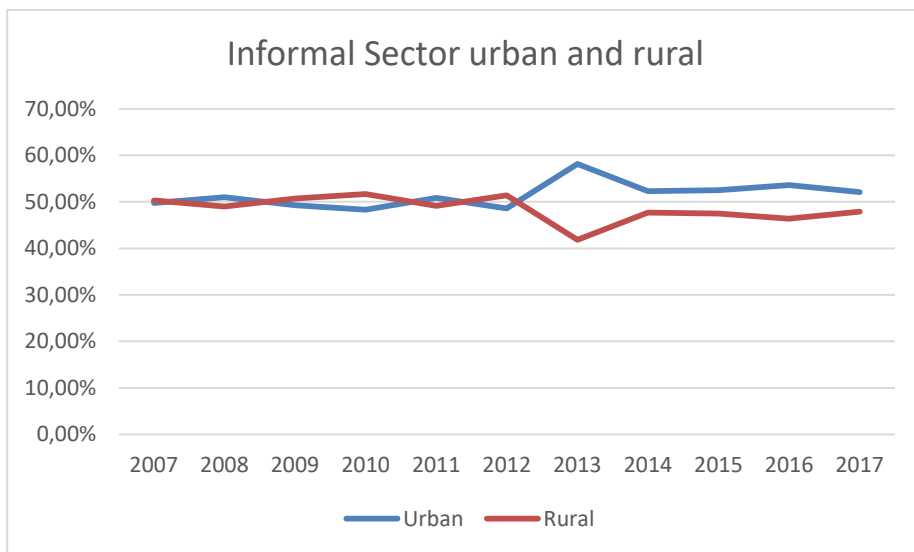
Table 16 Informal Sector per education level



Source: National Institute of Statistics and Censuses (INEC)

Regarding territorial concentration, Table 17 shows that Informal Sector has been present almost equally in both urban and rural sectors, with an important turnover point in 2013, point where the component in the rural sector ended being less.

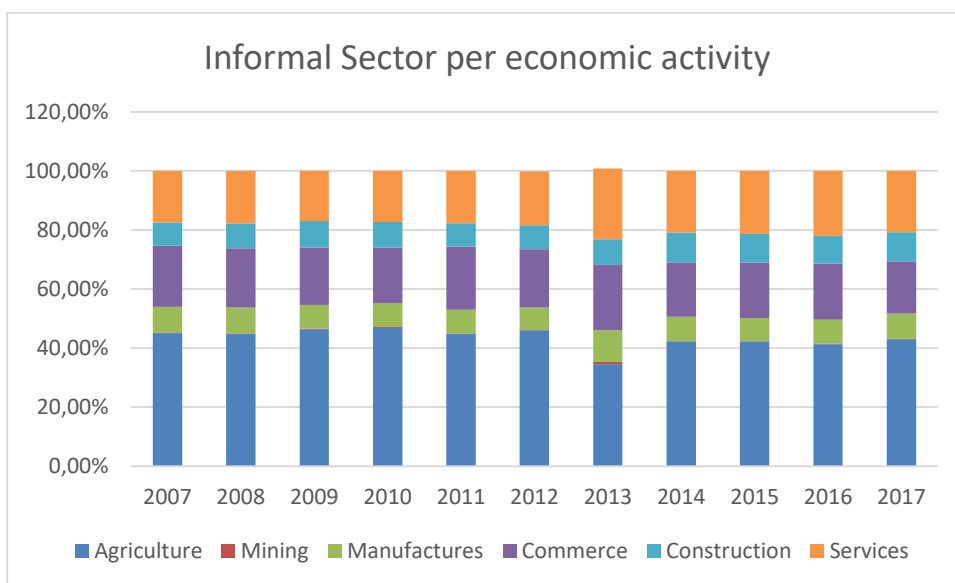
Table 18 Informal Sector



Source: National Institute of Statistics and Censuses (INEC)

Accounting for the economic activities that integrate Informal Sector in Ecuador, as seen in Table 19, it is Agricultural activities that have the biggest share, followed by trade and services

Table 19 Informal Sector per economic activity



Source: National Institute of Statistics and Censuses (INEC)

4.4. Employment Transitions across sectors:

The following set of Transition matrixes divides employment in six categories: Formal Sector, Informal Sector, Domestic, Unemployment, Non-classified

activities and Inactive population¹⁶. The data showed interesting results that show the dynamism of the Informal Sector, in terms of composition, entries and withdrawals.

Who remained within the Informal Sector? As seen in Table 20, permanence rates in the Informal Sector concentrate the highest percentages. This means that the Informal Sector in the study period was mainly composed by people who remained there and did not transit to Formal employment or another category. Moreover, this permanence rate increased from the period 2011-2012 onwards, until reaching 63% in the last period, while simultaneously the rate of permanence in the Formal sector started to decrease from the same period. In other words, across the time most people remained employed within the Informal sector and transited less visibly to Formal Employment.

Who entered and who exited Formal and Informal Sector? As per Table 20, in all the periods shown, most people who entered the Formal and Informal Sector came from Unemployment or Non-classified activities. Regarding exits, they are dynamic and reciprocal within both sectors, as most people who exited the Formal go to the Informal and the other way around. Another important finding is that, these transitions from the Informal Sector to the Formal increased until 2013-2014, time when the permanence rates in the Informal Sector began to grow, and simultaneously from the same year 2013-2014 the transitions from the Formal Sector to the Informal began to grow as well.

As per the results, there was virtually not formalization of people who came from the Informal Sector, thus an important point to refrain people to enter the Informal Sector should be to start tackling unemployment and non-classified activities first. Moreover, formalization efforts were somehow in progress until the rate of permanence in the Informal sector raised, thus the statements of (Pacchioni 2013) about Informality reduction in Ecuador, because of a balance between inflows and outflows from Informality results somehow inaccurate.

Table 20 Employment Transitions 2007-2008

Employment Transitions 2007- 2008 (percentages)						
	Formal Sector	Informal Sector	Domestic	Non-classified	Unemployment	Inactive
Formal Sector	76,33	10,45	0,63	3,40	2,80	6,39
Informal Sector	19,07	54,83	1,67	5,71	3,33	15,40
Domestic	6,34	18,26	59,60	1,20	2,23	12,36
Non-classified	35,35	34,20	1,77	12,07	5,07	11,54
Unemployment	30,69	18,96	1,52	2,21	18,50	28,12
Inactive	7,92	10,05	1,65	1,29	6,31	72,78

¹⁶ For reasons of space, a full explanation on calculation methodology, time frame and classification details is found in the Annexes Section as stated in the Methodology Section

Employment Transitions 2009- 2010 (percentages)						
	Formal Sector	Informal Sector	Domestic	Non-classified	Unemployment	Inactive
Formal Sector	77,40	9,78	0,38	2,06	2,34	8,04
Informal Sector	20,26	51,09	1,96	4,47	3,50	18,72
Domestic	7,70	12,40	58,35	1,12	4,57	15,88
Non-classified	37,37	36,73	1,42	11,28	5,52	7,68
Unemployment	30,90	18,28	2,44	2,26	16,05	30,07
Inactive	8,03	6,72	1,03	0,60	2,98	80,64

Employment Transitions 2011-2012 (percentages)						
	Formal Sector	Informal Sector	Domestic	Non-classified	Unemployment	Inactive
Formal Sector	78,30	10,22	0,25	2,20	1,91	7,10
Informal Sector	21,76	53,85	1,59	3,34	2,29	17,17
Domestic	11,35	13,19	46,27	2,83	1,49	24,87
Non-classified	52,87	22,74	0,74	13,87	1,32	8,46
Unemployment	35,08	19,20	0,11	4,69	18,88	22,04
Inactive	6,68	7,16	1,02	0,91	2,99	81,25

Employment Transitions 2013-2014 (percentages)						
	Formal Sector	Informal Sector	Domestic	Non-classified	Unemployment	Inactive
Formal Sector	75,24	12,24	0,32	3,14	1,97	7,09
Informal Sector	17,82	62,15	0,65	4,86	1,50	13,03
Domestic	10,07	16,48	49,97	1,30	3,03	19,14
Non-classified	23,09	50,82	0,79	12,88	2,07	10,36
Unemployment	31,98	21,91	1,33	2,37	10,11	32,31
Inactive	7,81	13,13	1,15	1,10	2,00	74,79

Employment Transitions 2015-2016 (percentages)						
	Formal Sector	Informal Sector	Domestic	Non-classified	Unemployment	Inactive
Formal Sector	73,81	13,54	0,49	3,34	2,97	5,85
Informal Sector	13,96	63,98	0,95	5,77	1,73	13,61
Domestic	5,41	16,57	60,28	1,65	2,89	13,20
Non-classified	27,61	45,69	0,83	15,82	3,55	6,50
Unemployment	25,72	27,19	0,86	4,08	18,22	23,93
Inactive	6,47	15,53	0,83	1,20	3,68	72,29

Source: INEC (National Institute of Statistics and Censuses). **Note:** The yellow marks represent the percentage of people who remained in the same sector. (For reasons of space, the Calculation method is described in the Appendixes Section).

4.5. Reflections:

In the decade, a more favorable economic and social scenario was observed in Ecuador as compared from former periods, and economic sectors of manufactures, agriculture, flower, textile and other industrial performed dynamically. Nevertheless, some factors affected their performance, as the international crisis of 2009, the fall in oil prices in 2015 and specific sector constraints as (uncertainties by the earthquake, shortages of export markets, raised tariffs and taxes, disagreements upon other implemented productive policies), plus the strong oil economy dependency. The private sector holds 90% of the employment, within the mentioned economic sectors, plus services and trade. However, from the

totally employed, only around 40% was within adequate employment (earning at least the Minimum Wage and working forty hours a week). Informal employment in Ecuador is characterized mostly within Non-Agriculture activities, and the employed in the Informal Sector are mostly men, own account workers from 25 to 44 years old or between 45 to 64 years old, with basic education only, almost equally distributed in the urban and rural spheres within activities of manufactures, construction, trade and services.

Informality evolution show that to some extent Labor Reforms reconfigured the situation. As regional labor figures show effectively Informality (informal employment and informal sector) has decreased in Ecuador, however, it remains within the average of the region. As for Informal Employment, while it is true that the number of people covered by social security affiliation has increased, and temporary working modalities somehow decreased, still half of the Ecuadorian employed population have been working unprotected through the period and more importantly the tendency seems to be stagnated. The same happens with the employed in the Informal Sector, the percentages have not been significantly altered from the 40%. Transition matrixes endorsed the statement, revealing that most people who were initially informal, stayed informal; and not many managed to enter the Formal Sector. The formalization process was somehow in progress until the rate of permanence in the Informal sector raised.

In overall terms Informality in Ecuador has a more flexible nature than the classical position of being either totally Informal or Formal, when some workers have been formalized to some extent but not further and where people who enter the Labor Market often start as Informals. However, as seen in Chapter 2, within the reviewed literature, the flexibility degrees and dynamic combinations of formality and informality among regulations are not mentioned. The question to explore now is Why Informality was persistent and did not decrease as expected?

Chapter 5 Performing the reforms: Great expectations at the early stages

When the time came, workers with great expectation welcomed their long-awaited demands that were finally granted genuinely and explicitly, backed up by the Ecuadorian Constitution itself, and it did happen, or at least at the beginning.

That was the case, for example of Labors Day in 2008, where workers from all economic sectors, including workers from the public sector oil companies, celebrated the approval of Mandate Number 8, even though they were conscious that deeper constraints were yet to be resolved. As (Interviewee #2, Aug 25, Skype) remembers “We thought a great victory and conquest was achieved” or as former President of the Central Unit of Workers (FUT) said back then “A concrete step has been taken” (FLACSO 2008: 2). There is no official statistic on how many workers were outsourced before the mandate, neither about the impact that labor outsourcing had. There are only estimations of between four hundred thousand and seven hundred thousand workers (17% and 25% of the PEA back then), which is a large number. Nevertheless, according to data from (FLACSO 2008), around twenty-four thousand workers were hired directly within months of implementation, including five thousand from the agriculture sector, whilst four enterprises were sanctioned for non-compliance. As for the per hour contracts, figures show they decreased 1% from 2008 to 2009. Apparently, results were optimal, and although conscious that in some cases formalization was hard to achieve, María Paula Romo, former National Assembly member that was part of the Mandate Number 8 approval, stated in an interview that “Mandate Number 8 is good as radical as it is” (FLACSO 2008:6). Despite opposing positions from affected outsourcing companies, who anticipated dismissals due to the reform, labor unions defended Mandate Number 8, stating that “The measure does not cause unemployment by itself, because jobs will be there while the economic activity is present” (Sigcha 2008). Thus, workers expected that within one year of working they would be granted permanent contracts finally. In accordance, the study by (FLACSO 2008), endorsed the worker’s statement and stated there was no reason to believe that Mandate Number 8 would cause a raise in unemployment.

The case of the Simplified Tax Regime (RISE), followed the same positive reaction. The Tax Authority of Ecuador (SRI) believed it was a good measure to target informality by incorporating more informal entrepreneurs into the tax system. According to (Serrano 2010: 169), “Simplified systems of tax collection contribute positively to the formalization of micro-enterprises and not only the tax management is facilitated, but also it is possible to achieve more equity”. Whilst (El Universo 2008) states that the reform started with some skepticism from workers of the informal sector, after this initial difficult process of adaptation and acceptance, data shows that indeed the number of inscriptions of entrepreneurs increased especially until 2012 with 157 thousand newcomers (its maximum point). In addition, Pachioni (as cited in World Bank, 2012:6) points out that “These measures had increased the cost of being informal”, thus highlighting the popularity of the Simplified Tax System at that early stage.

In the same vein, a wave of positivity emerged regarding the Expansion of Social Security Coverage and Penalization reforms. The targets were ambitious, as former Minister of Labor Carlos Marx Carrasco stated on (Radio Huancavilca 2014: 2) “I aspire to achieve more than 70-80% of affiliation”. From the workers’ perspective to achieve social security affiliation means a life turnover, as indicated by Interviewee #2 (Aug 25, Skype), “Without social security affiliation we would have to wait months to be treated at the hospital, so we felt finally protected”. Using the same argument, Domestic Workers representatives, rallied that through penalization for non-affiliation they would be recognized and covered, and as expressed in (El Universo 2011: 2) they were willing to “fight for it”. Nevertheless, from the employer’s side, reforms departed from a reluctant position from the beginning. Juan Carlos Díaz, former Executive Director of the Chamber of Commerce, stated in (Expreso 2015) “There is no proportionality between the offense and the established penalty”. Accordingly, Interviewee #6 (Aug 6, Skype) agrees with his point stating “It is fine if there is deliberately a bad intention of the employer to not affiliate the worker, otherwise not”. In the profusion of comments, as seen in Table 8, affiliation was in progress at the early stages. Own account workers affiliation registered, raised and reached the highest point within one year of the norm in 2012 with 28%, and an increase of affiliation of 10% in the Domestic Sector from 2010 until 2012 (the implementation phase of rights awareness Campaigns of Dignified Domestic Work).

In addition to the expectations of formalization through recognition of workers’ rights, social security and tax contribution, the term “stability” came into force with the Law of Labor Justice. As Interviewee #1 (Aug 20, Skype) reflects, the expectations were to “Put an end to the constant daily uncertainty of the work place by having an indefinite contract”. Indeed, at the early stages, as seen in Table 9, between 2015 and 2016 temporary contracts had the lowest numbers of the decade, between 28% and 25%; similarly, per-day contracts decreased to 18%, and permanent contracts in the private sector had the highest figures in 2016 within one year of implementation. Furthermore, for the first time in Ecuadorian history, the recognition and affiliation of non-paid housework, represented another long-awaited achievement and the reform generated great expectation. In an interview made in (El Telégrafo 2015) Nancy Quillupangui, a homemaker, reflects that the measure caused surprise, and that she was happy because she thought Social Security Affiliation was merely for salaried workers. Quillupangui continues by describing former President Correa’s impressions, stating “This is a great advance towards social justice” (El Telégrafo 2015). The target was to reach about two hundred thousand new homemakers affiliates by the end of 2015, and indeed in consistence with the data shows an increase in affiliation from 2015 to 2016. Despite the numbers reached there were only 140 thousand in the early stages. Richard Espinosa, former President of the Instituto Ecuatoriano de Seguridad Social (IESS, Ecuadorian Institute of Social Security), in (El Telégrafo 2015) stated that “This system is unique in Latin America” when explaining the reform’s dual purpose of rights recognition and affiliation benefits awareness.

Once the reforms were enacted, there was no other choice, employers despite their reluctance, had to implement the given reforms. This was reiterated by Interviewees #4 and #6 who stated, “We had to accomplish” (Aug 26 and 21, Skype). According to Interviewee #9 (Aug 31, Skype), these initial accomplishments by employers were a result of the “Fear of economic penalties or jail and

tax exemptions”. Indeed, as per the figures and initial expectations, the “carrots and sticks” seemed to be working as expected and apparently reforms were delivering good results. However, the question is for how long?

Chapter 6 Living with Reforms: How informality found a way.

Whilst figures showed how formalization progressed initially, with workers' expectations high; at some point again stability, social security recognition and incorporation into the formal sector stagnated. While each labor reform targeted informality focusing on different groups of workers, it seems that all reforms faced the same problems in the long run; new forms of bending the law by employers and constraints.

6.1. New forms of Bending the Law

When the law is made, so is the trap. True to form, dismissals began under the eyes of the authorities. As previously seen, unemployment, despite being relatively low in the decade, had two important peaks in 2009 to 6,5% and from 2014 to 2016 up to 5,2%. These figures are surprising especially considering that Mandate Number 8 and the Law of Labor Justice were supposed to be strengthening employment relations and stability at the time.

Although employers mention dismissals as a regrettable situation out of their hands, "We had to dismiss some workers" (Interviewee #4,8,9, Aug 26,23 31, Skype), workers argue that employers prepared actions to deliberately dismiss them in the future, as Interviewee #2 (Aug 25, Skype) points out "In some cases the employer made the worker sign a "resignation sheet" from the beginning, and despite the laws, they can dismiss a worker whenever they want". Effectively, by dismissing workers in advance, employers found a way to evade their responsibility to provide legal permanent contracts and social security affiliation. Interviewee #9 (Aug 31, Skype) agrees the situation often happens in factories, where workers are hired only for three months and then dismissed. However, Interviewee #4 (Aug 26, Skype), points out that by seeking stability, especially with the Law of Labor Justice, "Workers themselves deliberately induced employers to dismiss them, to be paid the dismissal compensation".

According to (FLACSO 2008) Mandate Number 8 started with a lack of official information on the extent of existent outsourcing companies in Ecuador and thus worked barely with estimations. In that sense, illegal outsourcing companies saw an opportunity to flourish and continue with informal labor practices thereby evading the law. As Interviewee #1 (Aug 20, Skype) argues, after Mandate Number 8, "More garage ghost offices operated". This point is consistent with (Sigcha 2008) who states that after the reform was enacted, some legal outsourcing companies were sanctioned, others closed, but some parallel illegal outsourcing companies started.

When per-hour modalities were forbidden by reforms, employers found the permissibility of temporary employment in the Ecuadorian Constitution convenient, as Interviewee #4 (Aug 26, Skype) says "We adhered ourselves to part time,

per-day or eventual contracts”. Nonetheless, workers reveal that employers manipulated those modalities when “Specific aspects of the contract were not regulated” (Interviewee #2, Aug 25, Skype). In the same way, for Domestic Workers, the same source states that “More informal hidden per hour agreements took place” or as (Palacio 2017) found when doing fieldwork in Loja, Ecuador, employers used perverse arguments to dissuade domestic workers from pursuing social security affiliation. Effectively, temporary employment modalities are a warning sign, because as Olmedo and Murray (cited in Maloney and Bosch, 2007) point out, short-term contracts along with the poor capacity of governments to enforce the law, generates more informality and acceptance of lower standards of social protection for workers. In accordance with the figures, in Ecuador per-day work modalities indeed increased in 2011 to 2,66% with another rise in 2016 to 2,32%, hence the informality triggering effect seems to be accurate for Ecuador.

Employers attribute an increase in labor costs to reforms, and while indeed (Perry 2007) found that they caused informality to rise in the 90s in some Latin American countries; in Ecuador the private sector found solutions to cope with this, as revealed by Interviewee #3, #4 and #5, (Aug 25,26, Sep 18, Skype), working hours and daily periods were extended, and additional shifts were created. This in turn would not harm workers if they were remunerated properly, however, workers pointed out that they worked “extensive hours with low payment” (Interviewee #2, Aug 25, Skype). Nonetheless, aside from the legal tricks to compensate high costs, employers drew on illegal solutions while pretending to comply with reforms. Interviewee #7 (Sep 1st, Skype) plainly explains that at least for certain sectors and in some cases “parallel garage production workshops” were created and operated under the “Artisans Law”. In effect, the “Law of Defense of Artisans” in Ecuador is more flexible in terms of association for production, tax exemptions and registration, hence it could easily be implemented at the expense of workers lack of knowledge of labor laws. Although possible, when it did not work, the same interviewee revealed that “Some enterprises ended up moving operations to Peru”. This revelation is surprising because back then, when most enterprises moved to Peru, they attributed the change to an extension of commercial operations. Nevertheless, in addition (FLACSO 2008) unveils that one of Ecuador’s most representative textile enterprises PINTO, moved to Peru, after being sanctioned with around 400.000 dollars for dismissing around 100 workers.

In the decade 2007-2017, Ecuador has welcomed immigrants from some Latin American countries, with minor or non-existent controls, thus this institutional weakness was used as another abusive instrument by employers to resist labor reforms, as pointed out by Interviewee #7 (Sep 1, Skype) “Some enterprises started hiring cheap labor force from Venezuelan, Colombian and Cuban citizens”. This means that despite the mandatory formalization of contracts, Ecuadorian workers were being ignored right under the eyes of authorities, hence the unemployment figures are no longer a surprise.

When speaking about ways to comply while not exactly complying, and despite Mandate Number 8 being covered by an Executive Decree to avoid misinterpretations, once again employers found a way to distort the path. Interviewee #6, and #8 (Aug 21,23, Skype) both confirm that some workers were formalized, but they lost seniority economic rights. While (Official Decree #330, 2008:3), expressively states that “The main company is obliged to recognize the

seniority of the worker who was outsourced by the time he worked for the mentioned company”. Similarly, Interviewee #8 (Aug 23, Skype) reveals that “The worker was put to perform two or more functions at the same time to compensate the high costs of labor”, while Mandate Number 8 states that “the employment contract should maintain the same functions that the worker performed when they were outsourced, and if disrespected the worker is entitled to report it to the authorities and be subject to compensation” (Zambrano, 2008). Nevertheless, the question remains how to denounce these issues when the authorities have already been warned?

The more an enterprise is inspected, the more likely it is to comply with the norms, or at least this is expected. However, findings show a tainted labor inspectorate system despite the strengthening-restructuring process of 2009. While employers confess that the labor inspectorate visits are sporadic or non-existent, workers argue that, “Employers knew when the inspectors were coming to visit” (Interviewee # 2, Aug 25, Skype). This was reiterated by Interviewee #9 (Aug 31, Skype) who indicated the existence of mutual agreements between enterprises and labor inspectorates, to not make visits. Moreover, whenever inspections were held, there were evident failures within evaluation procedures, as Interviewee #2 (Aug 25, Skype) explains, “Workers were interviewed in front of the employers and lied because of fear of being dismissed”, alternatively enterprises adopted perverse practices by “Selecting certain workers and hiding others”. These views are consistent with FLACSO (2008:2-3) findings where a female worker argues that after denouncing abuses, the situation worsened. To demonstrate the complete list of highly irregular and abusive practices, Interviewee #7 (Sep 1st, Skype) speaks out about a corrupted system, when adding that, “Some enterprises bribed labor inspectorates to allege legality accomplishment, especially when hiring foreigners”, which resonates with World Bank (2012) findings that state the same practice is common with informal sector business owners in Ecuador, who have been inspected. Fajnzylber (2007) states that attempts to reduce informality fail when both, the probability of regulation enforcement and detection are low. In that sense, and as per the findings, it seems that in the case of Ecuador the combination of a poorly committed supervising authority plus employer’s abusive abilities, are an explanation for informality resilience.

6.2. New Constraints:

Although the list of forms of bending the law are long, formalization of employment found another set of obstacles, this time, in the form of new constraints and structural factors which explain why reforms could not entirely tackle informality.

According to Fajnzylber (2007:188), “By means of technology and attention points, programs to simplify administrative tasks can be effective”, nonetheless, according to workers it is not the case for Ecuador. In turn, the advantages of the strengthening and restructuring process of the labor inspectorates, had no effect. As Interviewee #1 (Aug 20, Skype) points out “Labor inspectorates were more technified but far from good the treatment became less personal”. Relatedly, that constitutes the weakest point of the institution, as workers revealed that labor inspectors lacked knowledge in gender aspects, social protection etc.

Thus, how can the inspectorate system be fully effective, and solutions accomplished, if the Institution lacks integral knowledge on worker's rights and formalization?

In another aspect, in Ecuador, given that indefinite contracts, as per the Law of Labor Justice, proceed immediately after the 90-day test period, employers adopted a protective position and thought twice before hiring someone. In turn, as Pacchioni (2013) found in Ecuador, after a one-year period only about 10% of workers that were unemployed effectively had access to a formal job. In that sense both, workers and employers agree that more demands were made to workers. The hardening of conditions made the contracting process for formal jobs less dynamic and represented a bigger challenge especially for casual day workers and the youth (whom in most cases have poor education, skills and lack of experience). This is in accordance with previously seen figures that indicate these two groups are more likely to end up in the informal sector in the long run.

Beyond the difficulties in accessing existing formal jobs, workers argue that “Reforms did not help to create more formal jobs” (Interviewee #1, Aug 20, Skype), which is somehow consistent with the figures seen in Chapter 3, where the rate of adequate employment (formal in terms of salary and working hours) moved slowly through the years and did not grow beyond 40%. For labor consultants, as stated in El Comercio (2015), this limited employment creation, aside from the imbalance of market forces, obeyed a “frequent demand of a more qualified labor force”. Employers support this argument saying that Reforms didn't pursue a growth of the private sector which is the one that creates formal jobs and hires, but on the contrary (Interviewee #5,6,7,9, Sep 18, Aug 21, Sep 1st, Aug 31, Skype). Although it is true that there is a constant hostile environment between the private sector and the government, as seen previously, there was an economic recovery (with the exception of the mentioned economic slowdown years), and there was a high rate of enterprise creation in the construction, services, trade and manufacturing sectors, hence the argument of non-creation of formal jobs from a “non-growth” perspective is beside the point. According to Heckman and Pages (as quoted in Maloney and Bosch, 2007: 142), high dismissal costs, which are the highest in Latin America, along with other rigidities, are to blame for the segmentation of the market and the reduction in formal employment creation. Thus, the approval of “the ineffective dismissal”, which employers argued is indeed expensive, might be affecting formal employment creation in Ecuador. Simultaneously, Interviewee #1 (Aug 20, Skype) states that, some households perceived it as too expensive to formalize domestic workers and refrained from hiring, hence job creation in this sector was also scarce.

Although the efforts to improve social protection access and awareness somehow improved indicators, the percentage of salaried non-domestic workers without social security affiliation remained steady at around 45%, and for homemakers at 80%. While World Bank (2012) confirms that in the informal sector affiliation happens either entirely or not at all, and that most enterprises in this sector opt for the second option in Ecuador. It seems that foundational problems have not been addressed in the first place, and that a poor social protection culture starts from employers, who perceive it merely as a financial requirement. As a worker explains “The reform didn't end with evasion of affiliation by the employer nor with late affiliation payments and in some cases, workers stood at the middle of the hospital being unattended or denied loans” (Interviewee #2,

Aug 25, Skype). Employers, particularly from the agricultural sector, argue that the problem is one of socio-economic capacity, especially for small producers. On the other hand, it seems that the social security system, as designed, is the problem. As one worker states the “Voluntary affiliation system is not attractive as the compulsory” (Interviewee #2, Aug 25, Skype); which is a valid point since voluntary affiliation grants access to a retirement fund only and not for loans, as compared to the other. In turn Pacchioni (2013) reflects that improvements, such as loans in fair terms for workers, are a potential incentive to expand voluntary affiliation. In parallel, workers interviewed in (Crónica 2017:1) study reflect that despite the improvements made to hospitals and infrastructure “The attention is slow, or basic in relation to our requirements and the amount of the individual contribution increases with time”. In turn Mason (cited in Perry, 2007: 191) defines this as “truncated wellness systems”, which are defective social protection designs that hold onerous benefit packages for those in the formal sector at the expense of those in the traditionally informal sector. In addition, Mason (as cited in Perry, 2007) remarks that these systems have been historically characteristic of Latin American social protection schemes, it seems that in Ecuador even after reforms the situation has not changed.

Similarly, as seen previously, the Simplified Tax Regime (RISE) had many informal sector subscribers at the beginning, however World Bank (2012) reveals that workers joined the system merely to avoid sanctions and to give customers invoices in the first place. While it is true that the restoration of a tax culture in this sector can be challenging, the reform was not effective in the long run either. Despite lower fares, as seen in Table 1, inscriptions decreased considerably from 2009 to 2011 and from 2013 to 2016, showing that there was no longer a stimulus for individual contribution. In fact, workers found that the scheme was not beneficial and indeed costly, as Interviewee #2 (Aug 25, Skype) reflects “RISE was merely taxes and didn’t improve workers income”. This is consistent with Maloney and Bosch (2007) who state that taxes, along with lower salaries or the perceived benefits, motivates escapes to informality. This seems to be the case for Ecuador, where projects for microentrepreneurs or supporting laws for microenterprises have failed to reach these low-income groups, and for whom access to credit, and development advice has been denied. In addition, World Bank (2012) found that informal sector workers in Ecuador are not entirely confident of the efficiency of their tax contributions and have a strong sense of injustice and inequality as those who earn more pay less. This is another problem because as the literature explains when workers find taxes “unfair” it is a “collective decision problem”, because others start avoiding compliance as well (Saavedra, 2007: 239). Likewise, Torgler and Schneider, (2007: 2) state that when taxpayers perceive institutions to be doing a good job representing their demands, it is more likely that they choose to stay in the formal sector thus complying with tax payments. Relatedly, and as per the previous section, there is still a general perception of poor public services, incompatible systems and other formalization challenges and costs that together are strong incentives for workers to escape to informality, hence the legalist approach is reinforced in the case of Ecuador.

In Ecuador, many people agree that wage policies, especially the minimum wage annual rise, intended to benefit workers of lower wages and reduce inequality from all economic sectors. While in the literature Perry (2007) explains that “excessive rises” can segment the labor market and increase informality, Canelas (2014) argues that for Ecuador, the minimum wage rise has not made important

changes in formal and informal employment. This is somehow consistent with the previously seen transition matrixes with stagnated permanence rates in both sectors. However, workers challenge this statement and refer to the minimum wage as another reason to escape formality. As (Interviewee #1, Aug 20, Skype) argues, “It is below the basic food basket hence workers are demotivated to stay in the formal sector”. This resonates with INEC (2017) official figures which show that the basic food basket has gone from 453 USD to 701 USD in 2017, while minimum wages have increased from 160 USD to 375 USD and family income passed from 317 USD to 700 USD, meaning that effectively the minimum wage rise does not cover workers’ basic needs (the only exception is 2014). In turn Perry and Maloney (2017: 31) argue that “informality can be reduced even with high levels of unequal income if there are strong and impartial institutions”. This might provide an explanation for why the opposite is the case for Ecuador. As there is low compliance with the mandatory rise policy from the employer’s side. This is consistent with Wong (2017) who found that wage rises were high for some sectors, while for others non-existent. Moreover, the policy covers only salaried low-income workers and does not cover own account workers (who in turn mostly go to the informal sector).

Another challenge, despite the advances to target vulnerable sectors, particularly women and youth with the reforms of “Recognition of non-paid work” or by other projects such as “My first employment” or “Youth Employment Platforms”, unequal conditions are still deeply present in the labor market for these groups. Workers explain that there is still discrimination and unequal salaries for woman and youth, and this is consistent with INEC (2012) figures that show that inequality for women is present in terms of wages, working hours and time dedicated to domestic activities. To start, women in Ecuador work an average of 77 hours, while for men the rate is 58 hours, and from those hours women get paid for 46, while men for 51. Moreover, the wage gap is high, as men earn around 70 USD more than women. According to Pautassi, Faur and Gherardi (as cited in Andres, 2015) integration of women into the labor market in Ecuador, under a more egalitarian approach took place since the 90s, after a marked climate of misrecognition of reproductive work during the 80s, when activities within the household were not even considered as a job and women were merely seen as homemakers. Although, as Benería and Floro (2006) found, in the case of Ecuador, women’s participation in paid work does not imply a decrease in their housework, but on the contrary shows an overlap of activities, especially when gender norms are difficult to challenge. In fact, Cunningham (as cited in Maloney and Saavedra, 2017) reflects that women might prefer to work as own-account or informal, as it is seen to provide flexibility in balancing their home tasks as compared to the rigidity of paid jobs. This is consistent with Olmedo (2018) who states that women in the rural sector of Ecuador combine non-paid household chores with productive activities in agriculture. Nonetheless, despite their contribution employers from this economic sector underestimate women labor as seen in the remarks of Interviewee #3 (Aug 25) who stated that “Woman are always at a disadvantage because they do not perform equally as men”. This is mirrored in the industry, as demonstrated by Interviewee #8 (Aug 23) who comments, “The production stage is 100% male and female only in the administrative”. Thus, despite gender focused reforms and the evolution of the bargaining power of women to win participation in society through the years, it would appear that Ecuador has not overcome an entrenched scheme of underestimation with regards to women’s work inside and outside the household.

Employers agree that women and youth find it more difficult to access formal jobs, and as previously seen in Table 4, figures confirm this where employment rates for men are higher than the rates for employed women. However, despite “ineffective dismissal” and other laws in Ecuador, which intend on protecting woman particularly from losing employment, it seems that “pregnancy status” makes it more difficult for them to attain a formal job (Interviewee #10, Aug 18, Skype). According to a female worker’s testimony in FLACSO (2008: 2-3), after getting pregnant and even after being formalized with Mandate Number 8, she was a victim of deliberate abuses in the workplace, which included extended hours, threats, and even sexual harassment for being a single mother. In the case of young workers, lack of experience plays an antagonistic role when trying to enter formal employment. As Interviewees #1 and #2 (Aug 20,25, Skype) point out “Employers demand a lot of educational requirements plus many years of experience”, both incompatible if we talk about young starters. Relatedly, Perry and Maloney (2017) argue that informal salaried jobs are the entry points for young starters while they acquire experience. Which is not ideal, but apparently happening as previously seen in the composition of the Ecuadorian informal sector. This is reiterated by Interviewee #4 (Aug 26, Skype) who stated, “Woman and young students were mostly working part time or hourly”. This is also consistent with employment figures and reforms that prohibit these work modalities. In summary, this shows that female work is highly underestimated in the Ecuadorian labor market, from salaries, to job allocation and employer’s perception, and similarly for youth who find it difficult to enter formal employment, and thus find the informal sector as provisional hubs.

Chapter 7 Consolidation of Reforms: What reforms meant for workers and employers in the end.

A decade after reforms, with partial outcomes and a long list of irregular forms of bending the law and constraints, far from being a watershed, reforms left both employers and workers disappointed and with a lot to be desired.

“It was only a change of words” says Interviewee #1 (Aug 20, Skype). In the end, workers still perceive that there are laws and agreements with the private sector that seek to exploit them. This is not without merit as, after a doubtful interpretation of the reform, it seems that not all forms of precarious labor were effectively addressed. For instance, in Mandate Number 8 (Official Decree Articles 3 and 4, 2008: 2-3) express that in the areas of “surveillance, food, cleaning and messenger services”, outsourcing, hour and intermediate contract modalities could keep functioning, because those are considered “complimentary services” and not regular activities intrinsic to the enterprise itself. According to Gaussens (2016) there has to exist a conciliatory solution to hamper the rebound effect between Mandate Number 8 worker-oriented reforms and the market forces in Ecuador. However, it seems that there were not. It is worth mentioning that according to Perry (2017) non-compliance of regulations and informality culture is rampant when people perceive that the government benefits only certain groups.

At the same time, as seen in previous sections, employers rely on part-time modalities when other practices are forbidden. This is because temporary working modalities - as the face of informality itself - far from being eradicated, are justified, as mentioned in (Ministry Agreement #242 2015: 3) which states “depending on the nature of the business and within this case, only for “per job or service” and projects named as strategic for the state, to serve priority attention groups and when there is a need to increase production but always in a percentage no greater than 20% of workers”. This is consistent when observing temporary employment rates that, despite reforms, have remained almost unaltered through the period. Thus, showing that reforms themselves, whether intentionally or not, end up being sponsored instruments of informality.

Another aspect that workers resent and attribute to the poor effectiveness of the reforms is labor unions. Whilst labor unions are not the focus of this research, it is still worth mentioning briefly. One worker pointed out that “Agreements were disrespected, labor unions existence was restricted hence informal employment was even more present” (Interviewee #1, Aug 20, Skype). In effect, despite the Law of Labor Justice in 2015 that guarantees stability for labor union leaders through the enabled “ineffective dismissal” workers resent the enactment of Article 229 of the National Constitution and replacement of the LOSEP for the LOSSCA where casual day laborers are separated from public sector workers and the existence of labor unions and collective contracts was thus limited for the former. Workers refer to this limitation as an abuse, which is consistent with Cano’s (2009: 299) view that reforms were a regression in labor relationships. In addition, once again here the performance of labor inspectorates is highly irregular, as witnessed by Interviewee #2 (Aug 25, Skype) “Labor inspectors inquired

more about labor unions rather than of working conditions”. In turn, it is possible that in the absence of labor union organizations, worker’s rights and formalization are more likely to be violated.

Employers, question reforms from an enterprise-oriented view, agreeing that decisions should have been taken in consideration of the needs of the enterprise, levels of production and business nature. Employers have said that outsourcing and temporary working practices are not bad, because they are used to responding to seasons of great production demand (Interviewee #4,5,6,8, Aug 26, Sep 18, Aug 21,23, Skype). With the same rhetoric, the affected outsourcing companies complained that “Mandate Number 8 has simply ignored freedom of enterprise and hiring” (FLACSO 2008: 3). As previously seen, Ecuadorian enterprises moved to countries with lower labor legislation when parallel solutions to escape reforms did not work. Nonetheless, in this case employers blamed reforms, as the reason for moving operations to neighboring countries. One employer said “Reforms were too worker oriented, putting a lot of demands over enterprises who were not in a position or capability to accomplish, and led to many enterprises going to Peru” (Interviewee #3, Aug 25, Skype). Following the same argument, employers complained that “Labor inspectorates had a completely biased perspective in favor of the worker” (Interviewee #6, Aug 21, Skype), and that in addition they pursued formal enterprises instead of actively focusing on the illegal ones. This point is consistent with FLACSO (2008) findings that mention, while doing so the market of informality for illegal enterprises remained open. Moreover, employers discussed the failure of the Law of Labor Justice given that, according to them, it undermined the normality of labor relationships, which consists of getting to know each other slowly (Interviewee #6, Aug 21, Skype). “First it must be determined if the labor relationship will work and that this is difficult to do within 30 days” (Interviewee #6, Aug 21, Skype). The case of Ecuador with the clash of market and labor reforms seems to fit and explain informality. Which Maloney and Bosch, (2007) reiterate when stating that despite good intentions, if regulations are strict for both workers and not flexible to some extent for enterprises, the decision of escaping to informality is reinforced.

From the worker’s perspective, distrust in reforms is high. “They only tried to convince us that the situation was going to change but informality kept happening” (Interviewee #2, Aug25, Skype). According to Saavedra (2007: 222) “When individuals loose trust in the state due to corruption they perceive it as incompetent hence its less likely voluntary commitment to comply with regulations”. For Ecuador, after reform, the sense of mistrust in the government did not disappear, on the contrary, workers questioned the government’s intentions, especially when arguing that reforms were initiatives born from workers themselves in the first place, and as for Mandatory Social Security Affiliation especially, they reflect “It was not a gift granted, because those rights were explicitly written in the Ecuadorian Constitution”(Interviewee #2, Aug25, Skype). Similarly, when discussing RISE, Interviewee #1 (Aug 20, Skype) states “RISE was merely to cover the unemployment situation and the country’s debt figures”.

Although perceptions of workers and employers differed to some extent, both agreed, “None of the reforms, policies and actions were agreed upon before”. What this shows is that reforms were imposed, and that employers were never consulted in advance, and what is more, as (Interviewee #6,7,8,9, Aug 21, Sep 1st, Aug 23,31, Skype) reflect, reforms obeyed only to political interests and

demagogy, without relying on proper technical studies. This is consistent, with previous sections, which showed that there were no official statistics about the extent of outsourcing, precarious working practices, or number of enterprises, neither were there impact estimations on employment aside from mere estimations. Additionally, labor consultants concur that “Policies were not written properly and are subject to misinterpretation” (Interviewee #9, and #10, Aug 31,18, Skype). This has been demonstrated especially with Mandate Number 8 Articles 3 and 4 and regarding temporary work modalities, both of which leave doubtful meanings. This is in line with existing literature pertaining to Latin America which explains that informality is due to unmanageable and intolerant regulations beyond the state’s realistic capacity (Centeno and Portes as cited in Saavedra 2007).

As one worker points out in the end, workers associated with others in the same condition start to participate in non-recognized small activities to survive (Interviewee #1, Aug20, Skype). In the same vein Interviewee #9 (Aug 31, Skype) remarks that “Reforms caused more mobility across sectors”, which is consistent with transition matrixes, where most people who enter the informal sector through these years came from unemployment or non-classified activities, and those who exit the formal sector go to the informal sector as well. This was reiterated by employers, who argued that nowadays, it is evident that more people are driven to work in the streets (Interviewee #4,6,7,8,9, Aug 26,21, Sep 1st, Aug 23,31, Skype).

7.1. Reflections:

The position of workers and employers through the process of reforms and the transition to formality has changed over the past few years. Initially workers welcomed reforms with great expectation, happy for achieving formality and having their rights recognized once and for all. Despite employer’s initial reluctance, figures and indicators reflect positive initial results, including the tax system for informal sector workers, which, they initially objected to. Moreover, public authorities established targets, assertively confirmed reforms, ran campaigns for rights awareness and motivated workers to fight for their rights. Due to this, many pinned their hopes on a transition to formality. The World Bank and other organizations claimed that reforms more likely predisposed actors to comply and formalize labor relations.

However, the evidence shows that reforms for its part did not overcome deeper constraints, such as the minimum wage perception from workers, professional skills barrier to enter a formal job, unfamiliar restructuring processes, unfair tax perceptions, discrimination, poor job creation and questionably designed social security systems; combined these reinforced the escape to informality decision. Moreover, informality is still sponsored in the form of temporary working modalities that have not disappeared. Alongside this, enterprises themselves have adopted partial margins of accomplishment of formalization reforms, taking advantage of the weak side of institutions, the flexibility of other laws, ambiguous clauses, lack of official information, permitted temporary contracts and worker’s poor knowledge of cause for dismissal or even making the employment

situation more informal, while pretending to comply. Thus, informality found flexible margins of operation while escaping regulations.

After a decade both employers and workers express great discontent. They feel worker exploiting practices are still allowed for certain groups, which is true with Mandate Number 8's complimentary services and temporary jobs; workers resent labor unions pretension as a symbol of non-accomplished promises from the state. Workers argue that reforms should have been taken with their consideration and that of the private sector in order to deter informality. They argue that reforms were attempted against normality of labor relationships. Workers still have mistrust in governments intentions, especially with regards to taxes and reform outcomes. Both actors, workers and employers agree that none of the reforms were done in consultation with or agreed upon by them, but on the contrary, imposed.

Chapter 8 Conclusions

It is a fact that the political agenda of the government of Rafael Correa during the decade 2007-2017 was marked by a clear focus on the worker over the market. The objective of the formalization process was to reform those current working modalities with which employers lived comfortably sponsoring labor exploitation and the precariousness of employment for years. Certainly, this rhetoric of formalization, together with the favorable economic results and public and social investment, strengthened the confidence on the changes. In this sense, with the approval and great expectations of the workers, green light was given to the execution of the reforms even with the position of the employers openly against from the beginning.

With the logic of “carrots and sticks”, the reforms to formalize employment in some way attacked existing labor informality within the different groups of workers, improving indicators and achieving good results in the initial stages. For the group of employees, Mandate Number 8 and the Labor Justice Law, granted recognition and permanent work contracts. The Social Security expanded its coverage for homemakers and with the criminalization somehow it was possible to increase the number of affiliations. Likewise, with the promotion of campaigns of Dignified Domestic Work, the recognition of rights of this sector was urged and the indicators of contract and affiliation improved. From another angle, the inscriptions and entry into the formal economy of own-account workers with the RISE increased, and in general, with the Restructuring of the Labor Inspection, a certain level of compliance was achieved, and informality decreased.

However, over time the decrease in informality stagnated and the permanence in the informal sector became more evident. The reason is that both employers and workers at some point found the weak points of reforms to evade their compliance by devising new traps to "navigate the rules" conveniently after a cost-benefit analysis, many times, without necessarily disobeying the law.

While it is true that the informal sector and workers in Ecuador have similar characteristics to most of the cases worldwide studied, such as low levels of education, concentration in non-agricultural activities, average age between 25 and 44 years, etc. The information found indicates in general terms that informality in Ecuador has a more flexible nature than that comprised by the reforms.

Temporary work modalities, although explicitly defined in the literature as a labor precariousness modality, still exist within the Ecuadorian legal framework, thus the effect of the reforms on some but not all, ended up being inefficient to lower informality entirely. Even worse, as reforms were not built on firm foundations, nor departed with real indicators of quantity on existing informality and outsourcing, they were doomed to fail.

Likewise, the ambition to formalize all, without generating increases in productivity or similar to pay the cost of the "side effects" of reforms, such as unemployment, generated undesirable speculation and a field even more open to perverse practices and the misinterpretation of norms, thus becoming a double-edged sword and reinforcing the theory of escape of individuals towards informality.

Accounting that the private sector employs 90% of the Ecuadorian workforce, the logical action would have been to seek a consensus between private sector-workers-state, in order to reconcile the nature of the economic sectors with the working modalities at some point, that is, to understand more holistically where informality emerges to alleviate it. However, the collective vision shows a clear disconnection between the actors and the State with the imposition of the norms, which in the end resulted in rejection and a sense of discontent, and consequently with the theory, expanding further the margin of non-compliance with the reforms and the decision of appropriate informality.

Moreover, regarding social security systems, the case of Ecuador replicates exactly those "truncated welfare systems", since despite being universal, by not offering the same benefits for both salaried and housewives, they compete between themselves and far from making attractive the formalization this happens to be conceived as inconsistent, onerous and inconvenient and once again the escapist theory ends up fulfilling.

The culture of informality, as such, was not properly understood from the beginning neither by workers nor by employers. For the own-account workers the meaning of formalization beyond the payment of taxes to be recorded as formal, implies an improvement of their income to be able to fulfill their obligations; thus, since there are no policies that simultaneously assure this benefit, the formalization is practically distorted. Even worse, when there was an attempt to do so with the rise of the Minimum Wages, again employers complied partially with some but not all workers. All in all, in the long run is consistent with the escapist factors of Perry and authors, that is, it generated a collective perception of distrust regarding the actions of the state.

Employers on their side, in absence of consensus and finding reforms costly and unsustainable, they demonstrated an ability to adapt labor market conditions to their needs. So that the margins of escape or breach of the reforms remained broad and flexible for both employers and workers, hence each one opportunely chose the time to leave.

However, it is no surprise that all happened openly, since the Inspection Authority failed to fulfill its function, which was precisely to close this margin of noncompliance, and on the contrary proved to be easily corrupted by the escapist maneuvers of the entrepreneurs. That is, there is an underlying institutional weakness that was not considered, hence, for more penalties for noncompliance or good intentions of formalization policies, the effort ends up being useless if the failure comes from within.

All the mentioned factors explain in the long-term the existence of this type of hybrid situations and pitfalls, promoting the escape of the regulations of both workers and employers and thus maintaining a certain degree of informality present.

Although dominant schools of thought have contributed enormously to understanding the causality of informality worldwide, it has also remained relatively short relating to cases where informality has more elastic features. This is the case of Ecuador, where as shown informality is more than a one-time decision, and on the contrary it is a more mixed or flexible reality that takes the shape of the mold where it operates. In Ecuador, the margins to escape regulation seem elastic, hence there is not completely compliance, but neither is it non-compliance; companies in the formal or informal sector formalize their workers to a

certain extent and the consideration of the advantages and limitations of employment in the formal and informal sector remains open.

Similarly, the Ecuadorian reform policy has been based solely on the traditional literary conception of informality, and although it aligns itself more with the legalist perspective of escape from norms towards informality, it neglected the flanks of reforms and misunderstood the arena where the decision to formalize and the margins of compliance take place.

The challenge for policymakers is now to re-route the reformist design, and although it sounds redundant to do so starting from the dialogue, it is also important to consider more complementary cases from the literature on informality such as the holistic approaches which although relatively new, are useful indeed to depict informality from different angles. In the same way, the work of Chen and WIEGO is of vital importance as it accounts the linkage between informality and gender, which for reasons of space could not be addressed in the present investigation, but which is undoubtedly a topic to be discussed.

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Appendixes

Appendix 1 List of Interviewees

Number	Workers
1	CEDOCUT Labor Union Representative
2	CEDOCUT Youth Labor Union Representative
	Employers- Private Sector
3	Agriculture Sector
4	Flower Sector
5	Construction Sector
6	Textiles Sector
6	Industrial-Manufactures Sector
8	Electrical Appliances Sector
	Employment Consultants
9	Private Consultancy Services
10	Former Public Sector Advisor

Appendix 2 Interview Questions Format

Interviews to Private Sector Enterprises	Interviews to Workers Associations
<p>Mandate Number 8:</p> <p>1) How did Mandate Number 8 (which prohibited labor outsourcing and hiring by hour), affect your economic sector? Did the costs of the labor force increased? How did you face it? Were workers dismissed or were they formally directly hired to the company?</p>	<p>Mandate Number 8:</p> <p>1) What did Mandate Number 8 (which prohibited labor outsourcing and hiring by hour) mean to you as workers? Do you think that the reform was effective to formalize the workers and put an end to the precariousness of the work? Or what was left to do?</p> <p>2) Did companies comply by hiring workers directly or</p>

<p>2) How was the Mandate handled in temporary or per obra jobs?</p> <p>3) The annual increase in the Unified Basic Salary for low-income workers meant an increase in the cost of hiring workers? In that case, how did you compensate this increase? Maybe more or less working hours? Were there dismissals? What did you do?</p> <p>4) How these measures affected the hiring of women workers and young workers? Is it more difficult for them to enter to formal employment?</p> <p>5) Do you think that the increase in the minimum wage motivated more workers to remain in the formal sector or, on the contrary, were they discouraged?</p>	<p>were there dismissals? Did it generate more or less informality?</p> <p>3) Do you think that the annual increase in the unified basic salary generated positive effects on low-income workers? In that sense, were they encouraged to remain or enter to the formal sector?</p> <p>4) Did the employers comply with the salaries? Were the hours of work increased or decreased? How did the workers perceive this? Were there dismissals or you were kept at the jobs?</p> <p>5) How did this measure affect the hiring of women workers and young workers? Do you find it more difficult for them to enter formal employment? Why?</p>
<p style="text-align: center;">Strengthening of Labor Inspectorates:</p> <p>6) Did you receive inspections from the authorities to verify compliance with Mandate number 8 and other standards? Were these visits periodic?</p> <p>7) How was your company managed to meet these mandates? Did you accomplish them all or only some and why?</p>	<p style="text-align: center;">Strengthening of Labor Inspectorates:</p> <p>6) Do you think it was effective to strengthen the labor inspectorates to ensure that companies comply with regulations and standards? Or have agreements been made with workers to sign contracts or not comply with certain standards and not others?</p>
<p style="text-align: center;">Compulsory affiliation to workers in relation of dependence to social security:</p> <p>8) How did the company handle the obligation to affiliate</p>	<p style="text-align: center;">Compulsory affiliation to workers in relation of dependence to social security:</p> <p>7) Do you consider that it was effective to make the affiliation of workers to social security mandatory and the</p>

<p>workers in relation to social security? Did you affiliated them in a greater extent or were dismissals generated?</p> <p>Labor Justice Law</p> <p>9) What implied in your economic sector the Labor Justice Law that passed one-year contracts to indefinite? What adjustments did you have to make with the workers?</p> <p>10) Do you consider that this reform was effective to grant stability in the labor force and formalize the workers or not? and why?</p> <p>To finish:</p> <p>11) For whom were these reforms oriented? Do you think there was a difference between how the reforms were conceived and how they were carried out? These reforms generate more or less informality? These reforms generate more or less unemployment?</p>	<p>penalty for not doing so? Do you think the measure achieved greater formalization of employment? Or what was missing?</p> <p>Labor Justice Law</p> <p>8) Do you think that greater job stability was achieved with the indefinite contract reform? Was the reform viable and encouraged the permanence of workers in the formal sector?</p> <p>Creation of the RISE (Simplified Tax Regime):</p> <p>9) Do you think that the creation of the RISE was effective in some way to promote the entry of informal workers into the formal sector? What do you think motivates certain companies not to register in the RISE or RUC?</p> <p>Decent work for domestic workers:</p> <p>10) Do you think that the “Decent Domestic Work Campaign” was effective in securing the rights of domestic workers and the formalization of that sector was encouraged?</p> <p>11) How do you think employers faced the issue of the mandatory affiliation of domestic workers? Were there dismissals or maybe they refrained from hiring domestic work?</p> <p>To finish:</p>
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	<p>12) For whom were these reforms oriented? Do you think there was a difference between how the reforms were conceived and how they were carried out? These reforms generate more or less informality? These reforms generate more or less unemployment?</p>
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Appendix 3 Transition Matrixes Calculation

Source: INEC Methodological Documents December 2017, ENEMDU and Information proportioned by the Statistic Professional.

The logic: Transition Matrixes is a system of status that come from the mutually exclusive classification of the groups that constitute the Economically Active and Inactive Population. Their purpose is to explain the changes in employment conditions of the population along time. The results presented depart from the actual conceptual framework of employment classification that INEC manages.

Calculation Process and Methodology:

- **Panel Construction:** INEC uses a scheme of rotation of households previously established for trimestral surveys from the National Survey ENEMDU, since the year 2003 until now. The rotation of the sample across time consists of replacing a part of the sample from one period to the other. Given the importance of measuring the changes in employment status between the Informal Sector, Formal, Domestic, Unemployment, Inactivity and Non-Classified activities, INEC considers a rotation scheme recommended by ILO, called 2-2-2, that implies that a panel of households from a sample of 25% stays within the sample for a two trimestral consecutive period, followed by a neutral term of two trimesters and an incorporation for the last two.

- **Matching Process:** The process consists of the matching of information from the same individuals in two or more periods. Departing from a database that has variables of sex, age, ID number etc. Then the information of each variable is compared with the former period, if matching is accepted, otherwise enters a validation process. Then to match individual results with ENEMDU bases a personal identifying code is built per each one, and finally the Complete Matching Base is built. The new base has variables of identification from zone, sector, household and panel from each period, plus information about labor market, main and secondary occupation, income, social programs, retirement pensions and other factors that help to determine the employment condition. And finally, the transition matrix is built by crossing the variables of activity condition at the beginning and end in time.

Limitations and Timeframe: For building the transition matrixes, information was available for the periods 2007-2008, 2009-2010, 2011-2012, 2013-2014 and 2015-2016 and not for the last year 2017.