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The Segmentation of Public Labour Market in France

- **Introduction**

In the context of global economic crisis, public expenditure and national debt are now priorities on the European political agenda. To reduce the wage bill, nearly all European countries decided to cut wages and jobs in the public sector (Glassner 2010). But budgetary austerity follows twenty to thirty years trend of reforms within the public sector: in many occidental countries, the very notion and aim of public service have been discussed over and over during the last decades – mainly leading to the outsourcing to local authorities of public services or private sector (Dreyfus, Eymeri, 2006). In many countries, public employment is now organised around a three-fold structure: the core (civil servants and pen ended contracts), the periphery (short-term contracts) and the margin (subsidized employment, Meyer 2006). Indeed, “to take advantage of existing labour force divisions or to create new ones”, which can be done through growing share of short-term workers relative to civil servants (Grimshaw, Rubery and Marino 2012, p. 87) is a more indirect (but highly effective) way to reduce the wage bill.

Reforms of the public sector in France come out of an international long standing pressure for “destandardization”, conflicting with the institutional tradition of a national regulatory system (Mossé, 2010). On the one hand, civil servants’ unions defend and promote strong statutory regulation, on the other hand, public employers ask for more flexibility. After the 2008 crisis, the pace of public employment deregulation has been speeding up (Audier, Bacache, Courtioux, Gautié, 2012). But for now, French government has better to increase short-term contracts in public sector than cut wages and jobs of civil servants.

There are very few surveys on segmentation and employment regulation in the French public sector. I will show that 'non-standard' employment has always been included into the regulation system to give public employers some flexibility. Even the 1983 law, which fixed the labour standards of French civil service, allows public employers to recruit short-term workers. But a new form of dualism arose in French public sector in the mid-2000, through two laws voted in 2005 and 2012 to reduce precarious employment in public sector. Those laws are actually shaping an *unusual dualism*

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between civil servants and “non-standard” *permanent* public workers, and not only between civil servants and short-term workers.

The first section gives an overview of employment segmentation within the strategies implemented to reduce public sector’s bill in France and in Europe since the 2008 crisis. Section 2 takes a step backwards to examine the transformation of public employment regulation during the last decades, in a context of massive public administration reforms. Key features of French public employment regulation, past and present, are summarized in section 3. The dynamic capacity of LMS, and particularly their relevance to think individual mobility are discussed in section 4. The last section concludes.

- **Methodology**

This paper is based on two categories of empirical research materials engaging two distinct methods. Firstly, the deregulation of public employment is analysed through in-depth analysis of documents and archives. These documents allow us to describe the arguments used by different actors during the social negotiation preparing the draft of 2012 Law on public employment, using both archives from civil servants trade unions (pamphlets, internal meeting reports) and from the national ministry of civil service (internal meeting documents and reports). Secondly, we explore the statistical archives of the Ministry of Civil Service to create new datasets on public sector workforce, and show evidence of an increasing and heterogeneous use of non-standard employment on public labour market.

- **Section 1 Overview of employment segmentation within strategies to reduce public sector’s bill in France and in Europe since the 2008 crisis**

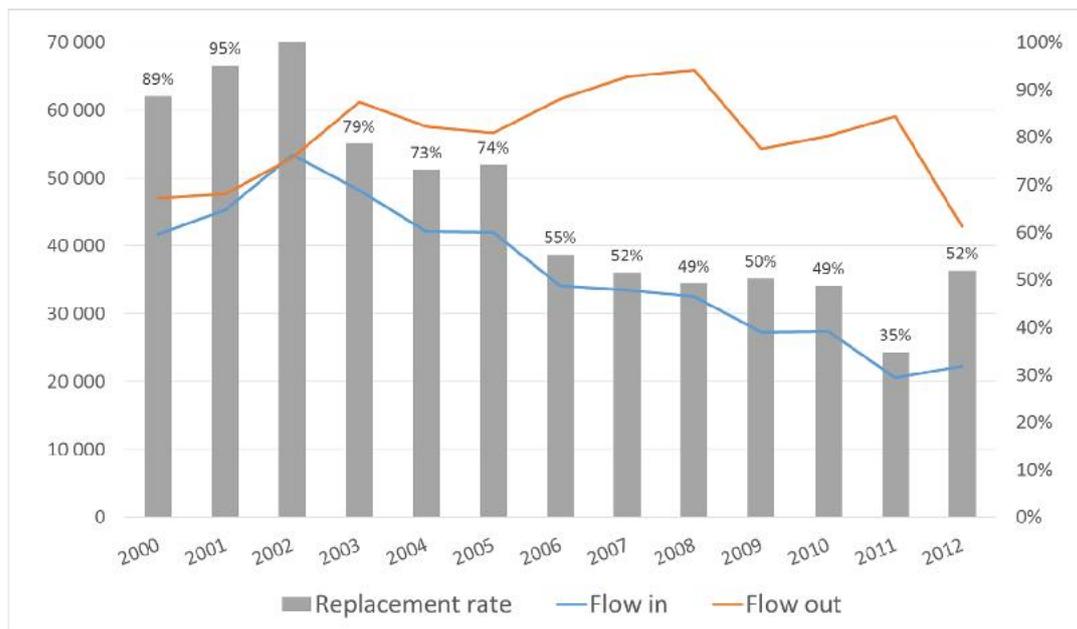
Austerity politics were more or less severe from one country to another due to the scale of the crisis being experienced very differently. “Because a large proportion of government spending covers the salaries of the public sector workforce, many countries have implemented measures to downsize jobs and to cut or freeze pay” (Grimshaw *et. al.*, 2012, p. i). Hence, half of the 27 European Union members have implemented unprecedented wage cuts from 2009 to 2010, while most of the other preferred freezing the pay (Glassner 2010). The trend is confirmed with 2010-2012 data (Grimshaw 2012).

The economic diagnosis for France is obviously similar: government deficit is higher than ever. But it seems not fair to consider that French public service is experiencing an austerity policy. 1: wages and bonuses have not been cut, compared to cuts in nominal wages which went up to 10%, 20%, or even 25% in Romania. 2. The adjustment of wage with inflation has been frozen since 2010, but individually civil servants still experience wage increases through automatic progression based on seniority. 3. The recruitment flows of civil servants are decreasing ([Figure 1](#)). Between 2002 and 2012, the annual recruitments flows have been divided by two (from 50 000 to 22 000), whereas the average living flow was constant around 55 000. Therefore, the civil service replacement rate has also been divided by two during the period. Data show that this decrease is not the immediate consequence of the global crisis and of some external strain (*e. g.* OECD, European Institutions...): the trend was declining since 2002, but the shift occurred *in 2006* one year before the President Sarkozy’s large reform in favour of the non-replacement of one out of two civil servants retiring.

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So the decreasing incoming flows of civil servants in France is not (only) a response to the public deficit crisis, but rather a re-enforcement of a path initiated long ago. As Grimshaw, Rubery and Marino said, “The current crisis is exacerbating longer term pressures to reform public sector pay and employment practices” (2012, p. xii).

Figure 1
In and out annual flows in French central government, from 2002 to 2012



Sources: official annual reports on the public services workforce 2013. Recruitment flows: annual survey of the DG for Administration and the Civil Service; living flows: State pension service, Ministry of Finances.

I argue that the main strategy to reduce public wage bill in France, is to increase internal differentiation: in 2012, one third of public services workforce was employed under non-standard contracts¹. These divisions have a high impact on wages. The segmentation has led to a reduction in the cost of public employment for several reasons. 1. Short-term contracts give employers quantitative flexibility, as employment duration is settled from the very beginning (up to 3 years according to the public code). 2. There is empirical evidence of a pay penalty for short-term workers (Kerjosse, Remila, 2013). 3. Short-term workers in the public sector are much younger than civil servants (34% are less than 30, compared to 9%). This ageing workforce raises the costs of statutory employment as there is a seniority pay for civil servants.

In France as in other countries, this segmentation strategy also comes out of a longer trend. Let’s take a step back to consider the consequences of the 1980s and 1990s political agenda of the State reform on public employment.

¹ Source: official annual reports on the public services workforce, 2015. The ratio is calculated including to the denominator all non civil servants, *id est* short-term contracts, but also all categories usually put in another statistical category: working status, teachers from private schools that are paid by the Ministry of Education, childminders, etc. The numerator is the number of statutory civil servants. The ratio commonly used by the government and unions is calculated dividing the number of short-term contracts by all public service agents, *id est*. civil servants, the military, and other categories, which gives a 17% share of non civil servants!

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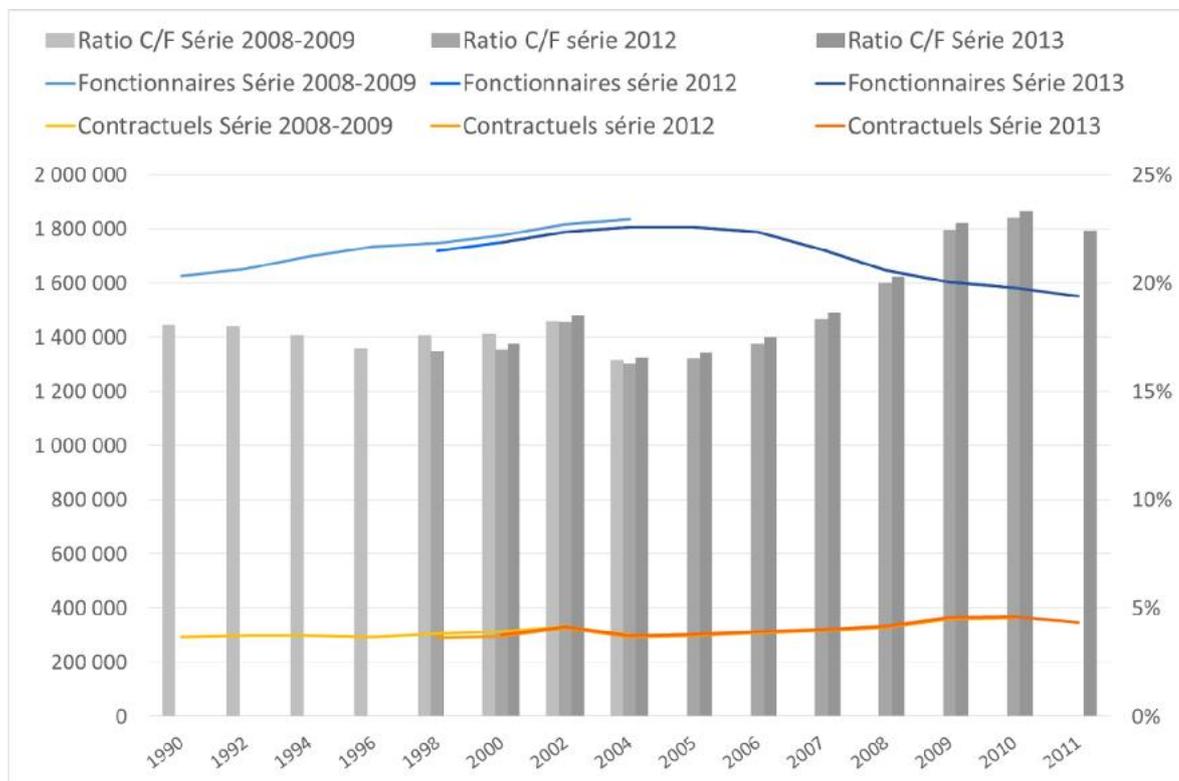
- **Section 2: the transformation of public employment regulation during the last decades, in a context of massive public administration reforms**

The reforms initiated by the French Government since the end of the 1990s primarily aimed at transforming the State’s organization and structure (Bezes 2009). From this point of view, the French Governments have been following their own paths, taking inspiration from their European neighbours. Yet, nobody in France has studied the consequences of these reforms on the forms and conditions of employment associated with the organizations and structures.

Unlike Italy for example, none of the French governments has ever dared to reduce the statutory privilege for workers with sovereign power functions during the fifth Republic. This (repeated) choice is a very strong one, as there have been many debates on this point, even law propositions to do so, all over the twenties’ (Rouban 2009) and this is continuing since 2000.

Instead, as Grimshaw *et al* (2012) show, the share of short-term employment in the central government has been growing in France as in other European countries. The data used in this report suggest a similar average (around 15%) all over the 5 countries included in the comparison (France, UK, Sweden, Hungary and Germany). Figure 2 shows a 25% increase of short-term staff in ten years (296 000 to 365 000), compared to the 9% decrease of statutory civil servants (1 720 000 to 1 582 000) during the same period.

Figure 2
Number of short-term workers and civil servants in the central government, and ratio STW/CS, from 1990 to 2011

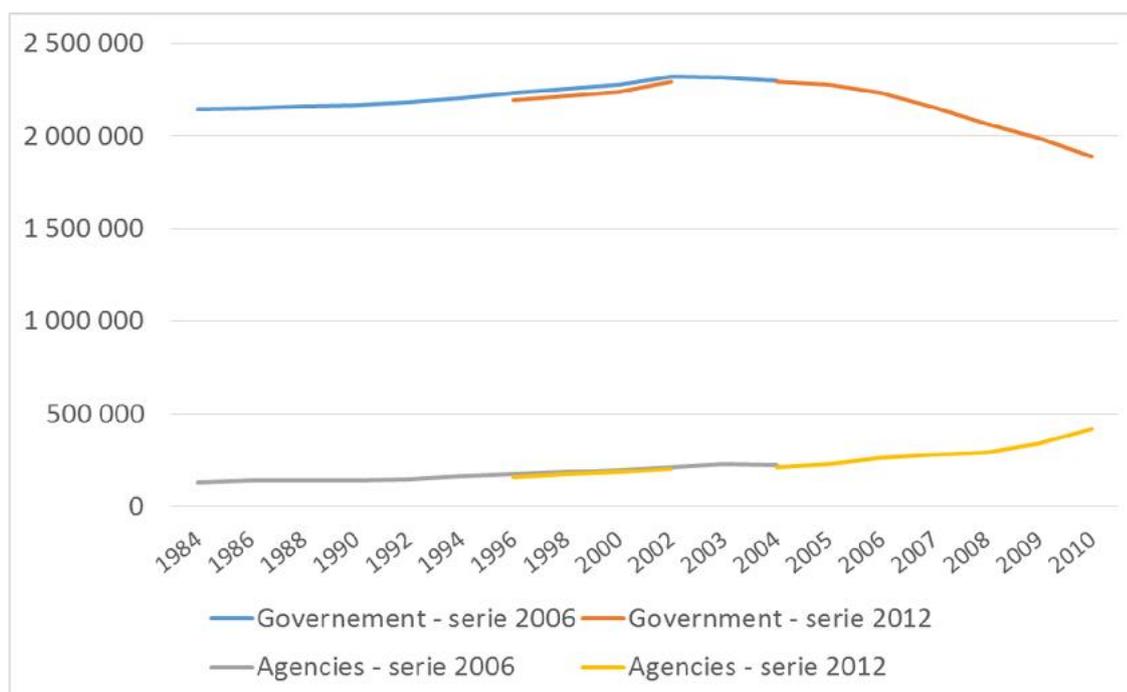


Sources: official annual reports on the public services workforce, 2008-2009, 2012 and 2013.

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One of the biggest change in the French government’s administrative culture over the last two decades was the multiplication of public agencies², as a way to increase budgetary responsibility of the top management while getting employment flexibility. These public sector units under the government control are sometimes “set up to circumvent constraints incurred through the special employment status of public sector workers or civil servants” (Grimshaw, 2012, p. xi): even if they are publicly founded and controlled, the legal regulation of public services workforce doesn’t apply. That is one of the reasons why the share of employment in the agencies, at the government level, has increased from 7% in 1996 to 18% in 2010. Figure 3 shows the growing trend of public workers in the public agencies under the control of the government, compared to the decreasing trend of the government perimeter. According to the same data, the share of short-term workers reach 153% in public agencies, compared to 8% at government level (the figures were very close in 1998). Lastly, due to different in and out flows, data at the government level show a spectacular concentration of atypical employment in these organisations: one third of short-term workers employed by the French government in 1998 were working in agencies; they were more than two third in 2010.

Figure 3
Number of short-term workers and civil servants in the central government, and ratio STW/CS, from 1990 to 2011



Sources: official annual reports on the public services workforce, 2005-2006 and 2012.

Contrary to most European countries, French short-term contracts in the public sector (in government as well as in public agencies) are ruled by the *public* code and not by the private labour code. In other words, the regulation of this employment form comes from the law or from a government decree. Another major difference concerns the very recent introduction of open-ended

² Namely “établissements publics”, or “opérateurs de l’Etat”, which proliferation has become a major political concern for the National Court of Auditors, see “French State and its agencies”, report n°2011-M-44-01.

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contract in French public service: until 2005, public administrations could only hire public servants or short-term workers. Hence, open-ended contracts have for long never been allowed in the public sector, particularly at the government level. In 2005, the public sector decided to transpose a European directive against abusive renewal of short-term contracts³ and did so through a specific law in 2005. Since then, public employers are allowed to propose open-ended contracts to their short-term workers with over 6 years of experience in the same organization. In 2012, a new law authorized public employers to hire workers directly with a long-term contract.

These two laws have dramatically changed the nature of social relations inside public service. To understand it, we have to look more deeply at employment regulation in French public sector.

- **Section 3: Key features of past and present public employment regulation in France**

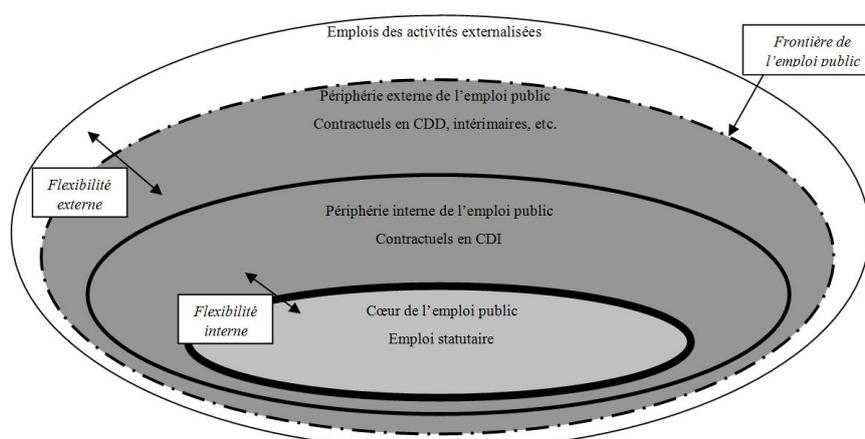
Historical research materials show that unstable political compromises progressively closed the administrative labour market around World War II. The exclusion of public workers from the private labour code (which was still under construction at that time) was far to reach a social consensus. The statutory code for public services workforce finally became a general law in 1983. From then on, it became synonymous with job security and acted as a model for the entire labour market, setting minimum standards.

For social actors as for academics, public service means statutory and lifetime employment, which is accessible through a competitive exam. This exam allows you to get regular promotion, seniority pay, and pension when you become old enough to stop working. In France, scholars, politics and unions have for a very long time mixed up this pattern combining lifetime employment and seniority right with typical internal labour market, ignoring the existence of short-term contracts in public sector.

Among the few French academics who are working on public employment segmentation, C. Nosbonne (2003, 2013) is the only one to propose a pattern of it (figure 4).

Figure 4

The segmentation of public employment according to C. Nosbonne



Source : Nosbonne, 2013, *Nouvelle revue du travail*, p. 11.

³ COUNCIL DIRECTIVE 1999/70/EC of 28 June 1999 concerning the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP.

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This pattern was designed for the average of European countries (see Meyer 2006) - I will later discuss the definition of the boundaries and the distribution of employment forms within the segments. Most importantly, this pattern is built upon the very strong assumption that public employment segmentation in Europe is the direct consequence of neoliberal politics, especially those of OECD and European institutions. It is, however, partially wrong in the case of France.

My survey shows that atypical or non-permanent employment has always coexisted with the civil servant employment norm. The 1983 civil service labour code precisely defines the civil servant status as the typical form of work in public sector. But in the meantime, it also set up atypical employment, namely short-term employment. The vocabulary used in the text of the law is meaningful: those workers are named “agents non-titulaires” (a translation of which could be “non civil servants”). Hence, atypical “forms of work and employment [...] are essentially defined negatively – in one way or another they deviate from the ‘normal’ employment relationship” (Hyman, 2013, p. 15) from the very beginning of the employment regulation process in the public service.

The major change in the regulation of short-term contracts in public sector since 1983 was the introduction of *permanent* employment for *non-statutory* workers, *id est* non civil servants (in 2005). This represents a major ideological shift. The government didn’t have to sidestep formal processes of social dialogue: the civil servants’ unions accepted the fact, in the name of the struggle against precarious employment. A collective bargaining about non-statutory workers took place from 2010 to 2011, preparing the terms of the 2012 law. But still, the agreement signed by the French Government and by 6 of the 8 civil service unions represents a breakdown of the traditional social relations. Now, public workers can get job security just as civil servants, but without the main statutory advantage: seniority rising pay, which stays a privilege acquired by succeeding a competitive exam to become civil servant. In other words, the 2012 law creates distinct and strongly unequal career paths for public workers.

How is such an ideological shift possible? I can suggest three main reasons. 1. As mentioned before, and as surprisingly as it is, nobody in France has ever shown a scientific interest in the coexistence of short-term workers and civil servants in the civil sector. 2. Short-term workers in the public sector have been excluded from the social dialogue until 2012 Law: before that, they could neither vote nor be elected. As a matter of fact, they don’t form a political class, and the political compromise has for long been reached between government and civil servants unions. This compromise was for unions to accept public employers to recruit short-term workers, and for the successive governments to set up integration laws⁴ every 10 years on average. 3. The political invisibility of short-term workers in the public sector comes from the non-permanence of this situation, not because their contract is short, but because some of them actually become civil servants a few years after their recruitment.

This last critic addresses the static character of the pattern: it doesn’t consider the individual mobility from one segment to another, especially the mobility from short-term contract to statutory employment.

⁴ The 1983, 1996 and 2001 integration laws gave easier access to statutory employment, organizing reserved selective exams to enter civil servant groups.

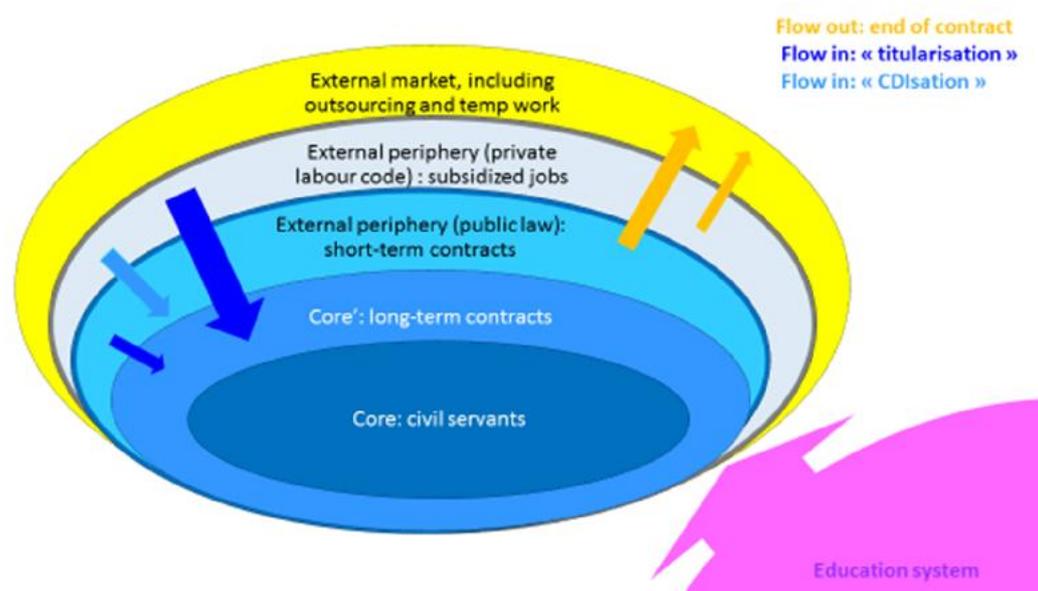
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- **Section 4: Is the concept of LMS relevant to think individual mobility?**

Figure 5 proposes a new pattern of public employment segmentation in the case of France, changing the boundaries and the distribution of the different forms of employment within segments. On the one hand, external flexibility is composed with private forms of employment (subsidized jobs), outsourcing and temporary work. On the other hand, internal flexibility is composed with short-term contracts, because open-ended contracts now represent a part of the very core of the segmentation frame. But the main input of this new pattern is the pointers, which represent individual mobility. Short-term contracts are not (only) a marginalized form of employment, it is also a way to get to permanent jobs and to civil servant status.

On average, one out of two short-term workers leaves the public sector during the 4 years following their hiring (Bessi re, Pouget, 2007); the orange pointer represents this flow out. But within the rest, one out of three is still on short-term contract in the public sector (they stay in the light blue segment), and one out of seven has become a civil servant (this is the dark blue pointer). Every year, 10 to 15% of laureates from competitive exams to enter the French public services workforce are short-term workers from the public sector⁵. Nowadays, fewer laureates from competitive exams to enter the French public services workforce are coming from the educational system; they are more and more older workers with a few years experience of short-term contracts in the public or private sector (Kerjosse, Remila, 2013). This will certainly change the nature and the extent of public service motivation and values.

Figure 5
A new pattern of public employment segmentation



⁵ Sources: official annual reports on the public services workforce, from 2000 to 2015.

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In a few years, it will be possible to count how many short-term workers got an open-ended contract compared to those who became civil servants. With adequate data, it will be very interesting to test one hypothesis: do the latter possess the same demographic and social characteristics as those who become civil servants without experiencing short-term employment in the public sector? Do the former have completely different characteristics? In other words, we may be able to confirm the fundamental hypothesis of ILM theory.

- **Conclusion**

The goal of this paper was to address the changing form of public employment regulation in France. What's new is the division *within permanent* civil service workers: “statutory staff” retains job security, guaranteed wage progression with seniority and promotion perspectives, whereas “contractual staff” can only get job security without any of these advantages.

These results allow us to discuss the threefold structure of public employment (Meyer, 2006). In the case of France, we argue that the *very core* of public employment is now dual.

Lastly, taking career paths in the public sector into consideration allows us to question the porosity of borders between core and periphery. If theoretical reformulation appears as a necessary condition to enable a dynamic analysis of the segmentation, I hope this paper tends to demonstrate the present usefulness of labour market segmentation as a heuristic of public labour market functioning.

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