



International
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Organization

► The future of diversity



Edited by
Christiane Kuptsch
and Éric Charest

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The future of diversity

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► Preface

This book was envisioned and the first chapters written in 2019 to celebrate the Centenary of the International Labour Organization (ILO) and the 50th anniversary of the Canadian *École nationale d'administration publique* (ENAP). In this same celebratory spirit, the two organizations embarked on a common endeavour on “The future of diversity” at a major conference held in Quebec City, Canada, on 11–13 December 2019, where the majority of the chapters in this collective volume were presented.

This book, however, is far more than the fruit of collaboration with a view to celebrating anniversaries. The theme of diversity was extremely relevant in 2019 and has perhaps become an even more pressing issue in 2020 and beyond, against the backdrop of, for example, overt racism and Black Lives Matter demonstrations in North America and Europe.

Here we bring together the perspectives of scholars and practitioners from various disciplines. Among other things, the content offers reflections on concepts, analyses the political discourse around diversity, considers the relevance and effectiveness of employers’ tools that often come under the label of “diversity management”, and actions by States such as the establishment of legal frameworks for preventing and combating discrimination.

There is no claim to exhaustive coverage of the issues arising: not all aspects of diversity are covered, nor all grounds of prohibited discrimination that appear in the legislation and equity programmes of countries (e.g. the reader will not find chapters dedicated specifically to disability or indigenous people). Nonetheless, the value added of this book is that it highlights diverse perspectives that have the potential to open new horizons: People interested mainly in gender equality might read about ethnic diversity; those focusing generally on racism might be inspired to also think about age discrimination and so on. Moreover, the theoretical concepts and tools applied to overcome discrimination in one area are often also applicable in others. This book is thus a rich source of inspiration for anyone wishing to move forward towards more just labour markets.

Through the interdisciplinary nature of the book and with contributors from both the world of work and academia, it is hoped that these insights will reach a wide audience, from newcomers to the subject to specialists who wish to broaden their view.

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Introduction

► Diversity, equality and inclusion, discrimination and exclusion: Defining the concepts, understanding the debate and analysing the political discourse

Christiane Kuptsch and Éric Charest

“Let’s talk about diversity”. When invited to a talk-show with this title, it is likely that a businesswoman will think of a different subject matter to be discussed than a schoolteacher with children of five or six different mother tongues in his classes; and a government official working in an office for non-discrimination might expect the discussion to go in yet another direction. “Diversity” has different meanings in different contexts, and this book reflects this reality.

Without any claim to exhaustiveness, it is indeed one of the main purposes of this book to present a *variety of perspectives*, aiming to increase awareness about the forms and elements of diversity and to prevent misunderstanding and confusion. This book also offers an analysis of the “multiple layers of diversity” (Faist, 2010): diverse societies, diversity in organizations and diversity at the individual level. One could also speak of the macro, meso and micro levels of diversity. Certain chapters focus on only one of these levels while others refer to two or all three. Last but not least, this book is about the interlinkages of the concept of diversity with notions such as equality, discrimination and violence, inclusion and exclusion. While the chapter authors present different perspectives on diversity, the common thread in all chapters is that they focus on diversity in the world of work.

For some who take a “micro perspective” and focus on the various elements that constitute an individual’s identity, diversity connotes with “Otherness”. In this sense, diversity describes the character, quality or condition of people considered “different”. This perceived difference, which can be measured according to many variables, such as gender, skin pigmentation, ethnicity, age, etc., suggests the presence of tacit norms. In many jobs or economic sectors, we tend to have a collective image of the “typical worker”. Those who do not resemble this image are the “Others”, who are more at risk of having to overcome obstacles to obtain work and maintain employment. They are also likely to be disproportionately exposed to more or less subtle forms of discrimination and violence in the workplace. “Typical workers”, on the other hand, are often unaware of their privileges in the labour market.

In this connection, the role of perception must not be underestimated. As migration research has shown, the boundaries between “in-group” and “out-group” may change over time (see for example Fincke, 2009). In northern European countries, in the 1950s and 1960s Italians, Spaniards and Turks were all perceived as “guest workers from the South”. While public perception ultimately accepted Italians and Spaniards into the majority group, Turks stayed outside and new boundaries were created between “Christians” and “Muslims” and European Union (EU) and non-EU citizens. Similarly, while until recently the substantives “man” and “woman” were ascribed entirely on the basis of a person’s sex at birth, gender attribution is becoming more fluid. In many countries, the job of elementary school teacher, that was for all intents and purposes unattainable for a woman 100 years ago, has become a “woman’s job” to which men continue to have unhindered access but where a transwoman may be considered as the “Other” and face discrimination in employment today.

For those interested in the “meso level”, “diversity” or “having a diverse organization” is often an objective to be achieved. In this interpretation, diversity brings improved organizational performance or is an aim in itself driven by considerations of equity. Staff in businesses or other organizations are expected to reflect the composition of society at large, either because such an approach is considered necessary to enhance profits or because it is “fair” that everyone be entitled to equal opportunities and access to employment – or for both reasons. Occasionally, it is heard that the “business case” for diversity should not be confused with the so-called “moral case”, i.e. considerations of equity. While the latter tends to be closely related to anti-discrimination and equal employment opportunity legislation (the legal framework), the business case is typically associated with the management of diversity by firms and implies benefits that impact their performance. However, as Monks (2007) points out, legislation shapes the way in which diversity is managed. For example in some countries, national legislation and its related statistical apparatus distinguishes according to self-reported ethnic groups (United Kingdom), whereas in other States (France), it is illegal to collect data on ethnicity; still others focus on issues of citizenship (Germany).

“Diversity” can also be seen in connection with “multitude” and be considered as “a given”, thus becoming the starting point of the analysis. The questions that arise then are: What does it mean for the world of work that society is composed of people with a variety of backgrounds and characteristics? And what does it mean for individual workers to belong to, or to be perceived as belonging to one particular group rather than another? Diversity at the societal or macro level is often thought of as cultural, ethnic or racial diversity. This might be because all societies are composed of people of different sex and age but some are relatively homogenous in terms of ethnicity or religious beliefs. In relation to diverse societies in this sense, Vertovec (2007) has coined the term “super-diversity” to describe settings in which numerous ethnic groups co-exist and there is more than a “majority-minority” reality.

Diversity management and the economic case for diversity

Diversity management is usually understood as the official recognition, consideration and support of lifestyles and personal characteristics of all employees by a private firm or an organization. It encompasses the concepts of respect and tolerance and is based on the idea that every individual is unique. In practice, diversity management refers to different awareness measures, providing support for minority groups, communication strategies and general guidelines about the main characteristics of various groups in order to facilitate the acceptance and inclusion of minority group members. The rationale for introducing diversity management is to increase efficiency or profits by underlining what different individuals might contribute to organizations.¹

The literature on diversity management distinguishes between external and internal business benefits that are both able to improve business performance. According to Urwin et al. (2013, p. vii):

“External Business Benefits arise when firms better represent the world (and legislative environment) around them. For instance, having staff with roots in other countries and cultures can help a business address its products appropriately and sensitively to new markets. Consumers are becoming more diverse and firms may need to reflect this or risk losing out in important markets. Internal Business Benefits arise from improving operations internal to the firm. For example, a diverse workforce which includes a range of perspectives can improve creativity and problem-solving, resulting in better decisions. Also a diverse workforce can offer greater flexibility.”

In this volume, **Jae-Hee Chang** is ***Unpacking the business case for gender diversity*** in Chapter 1. Based on an analysis of existing datasets and the ILO’s global enterprise survey on Women in Business and Management, she shows how enterprises use women’s representation in the workplace as a key component of their business strategy and how this leads to improved business outcomes. Companies with an inclusive business culture and inclusive company policies were found to be over 60 per cent more likely to have improved profits and productivity, and were more likely to experience enhanced reputation, greater ease in attracting and retaining talent, and greater creativity and innovation. While globally 53.3 per cent of those with tertiary degrees are women, “glass walls” (occupational segregation with women working in less strategic divisions

¹ Faist (2010) notes that diversity programmes tend to connect membership roles in organizations with knowledge and skills acquired privately and related to the personal life of workers. Not only knowledge of certain languages but also lifestyle, cultural or sexual preferences become vehicles to increase economic efficiency and productivity. The boundaries between what is “private” and what is “occupational” become porous (p. 303). He also points to the fact that the focus on individual competencies and characteristics can divert attention from concerns with disadvantages and structural discrimination in certain contexts (p. 302).

of the firm), “leaky pipelines” (the disappearance of women between lower and upper management positions) and “glass ceilings” operate to hold back women from leading positions. Yet, *Chang* demonstrates in particular how policies that bring women into higher management and boardrooms are effective measures to increase the overall share of women in enterprises. The presence of female CEOs or chairpersons of the board reduces glass walls and leaky pipelines and creates incentives for gender equality. *Chang* further underscores that more than simply a one-off policy is needed to bring about changes in the organizational culture, such as creating alternatives to “constant availability” expectations, to eventually arrive at a virtuous circle that will sustain gender diversity.

In Chapter 2, also focusing on gender diversity, *Maire-Soleil Tremblay, Hanen Khemakhem and Patrice Gélinas* analyse the causes of the lack of diversity on boards of directors or at other top levels of enterprises, and present strategies to increase and manage diversity. Like *Chang*, they consider that *The tone at the top* is crucial and question why the number of women on boards increases at only a moderate pace. Among the explanations they offer is the fact that people in power, mostly men, tend to mentor, encourage and advance those who are similar to themselves and that it takes time to change unconscious biases that exist across all sectors of the economy. As solutions, *Tremblay, Khemakhem and Gélinas* propose ways to overturn unconscious biases and strategies to value differences, engaging mentors and champions as well as setting and working towards measurable goals. They also provide evidence about quotas and their effectiveness but question the depth of transformation obtained by such approaches.

Verena Schmidt and Manuela Tomei explore ways of *Improving gender equality through collective bargaining* in Chapter 3. Akin to the authors of Chapters 1 and 2, they observe that worldwide, women workers are under-represented in decision-making bodies and processes that shape workplaces and employment outcomes, including in contexts where women make up the majority of the workforce – a fact that is counterproductive for businesses, economies and societies at large. They also show how women in the workforce have been disproportionately impacted in the economic fallout of the COVID-19 pandemic that started in 2019. *Schmidt and Tomei* give concrete examples of how collective bargaining can work in favour of gender equality, drawing upon innovative experience from different regions in the world. They present approaches that integrate gender equality concerns into traditional bargaining topics, gender-neutral job evaluation methods, initiatives regarding working time and work-life balance, and measures to address violence against women, also highlighting the role of the ILO’s Violence and Harassment Convention, 2019 (No. 190), and its accompanying Recommendation (No. 206). Since more than two billion people earn their living in the informal economy, the authors emphasize the importance of extending collective bargaining to this part of the economy to successfully bring about transformational change. *Schmidt*

and Tomei consider the continued under-representation of women in collective bargaining to be a serious democratic deficit and attribute deficits in women's voice and agency at work to unequal power relations between women and men, persistent gender stereotypes, the undervaluing of women's work and women's shouldering a disproportionate burden of care work, with all of these factors leading to both direct and indirect discrimination. The chapter ends with reflections on gender equality and the future of work, and offers recommendations to governments, workers' and employers' organizations.

In Chapter 4, *Katarzyna Hanula-Bobbitt* suggests that the business community can learn from non-governmental organizations (NGOs) when it comes to diversity, namely through ***Commitment to inclusion as a diversity management strategy***. She takes a broad view of diversity, referring to gender, race, disability, religion, belief, sexual orientation and age, as well as personal traits such as work style, social class, personality and culture. *Hanula-Bobbitt* finds that NGOs generally try to manage diversity in the name of equity and fairness, and often succeed in creating a work environment that involves everyone based on their individual characteristics, whereas businesses tend to set apart employees, tasking them with jobs that relate specifically to their background. However, in her view, inclusion is the only scalable way to build diversity within an organization; it will not suffice to merely increase the number of different identity groups that comprise an organization's staff. Another lesson that businesses could take from NGOs is to develop a culture that genuinely values a variety of opinions and insights where managers give space to employees, empower them to take initiative and encourage them to freely express themselves outside of given hierarchies. In this context, *Hanula-Bobbitt* refers to diversity entering a company's DNA instead of becoming a public relations tool. As concerns the acceptance of diversity in society, she considers that the private sector has a crucial role in promoting diversity because companies can influence political discourse and outcomes, having the resources necessary to assure buy-in to policy priorities. Investment can also be a way of promoting diversity, namely via socially responsible investment that incorporates environmental, social and governance factors in investment decisions. *Hanula-Bobbitt* observes that businesses increasingly include diversity and inclusion metrics (tracking recruitment, representation, pay, retention, advancement) in their corporate disclosure.

Theo Sparreboom, Sarah Kups, Jesse Mertens and Sandra Berger examine the economic case for diversity from a macro perspective, looking at economies as a whole (as opposed to the enterprise level), by discussing the economic contribution of immigration in Chapter 5, on ***Diversity, migration and the economy***. Based on a broad analytical framework, the chapter reviews available evidence regarding both developed and developing economies, but draws in particular on OECD-ILO research conducted from 2014 to 2018 in developing countries as countries of destination. *Sparreboom, Kups, Mertens and Berger* analyse issues

such as immigration and per capita income; labour productivity, including in contexts with considerable low-skilled immigration; and immigration and entrepreneurship. They find, among other things, that the relatively high share of employed persons among migrants tends to have a positive effect on income per capita in host economies. In terms of productivity, they show that efficiency gains are possible, as observed in various studies, through task specialization, competition and the adoption of new techniques. They warn, however, that some of the alleged gains in productivity as a result of increased diversity due to immigration could come at the expense of decent working conditions for migrant workers.

The illusion of equality – Inclusive structures needed

Where workers are not visible to employers and clients, discrimination should not be possible in principle and one would expect equal outcomes (e.g. earnings) for all workers. However, there may be more important forces and entrenched practices at play, so that such equal outcomes will not necessarily be the case, and equality remains an illusion. Even legal protection from discrimination and provisions for equal opportunity for “diverse persons” in effect in many contexts are often not enough to deliver outcomes of equality and inclusion. The human mind tends to put people in boxes and declares everyone in the same box as being equal, a further illusion; in reality, there is diversity within diversity. Chapters 6, 7 and 8 address the difficulties of creating equal outcomes for all workers against intervening variables that are not directly related to the world of work, and highlight differences within groups and the policy implications thereof for arriving at fair outcomes for all.

Chapter 6 offers *An analysis of the gender pay gap among crowdworkers*. Authors *Abigail Adams and Janine Berg* note that debates on the gender pay gap generally focus on discrimination by employers, whether explicit or implicit, but that the study of discrimination is often complicated by the presence of unmeasured confounding factors. They use data from an online crowdworking platform, where worker gender is unknown to the employer, to assess whether there is a gender pay gap among crowdworkers. Despite the employers’ “gender blindness”, *Adams and Berg* find a gender pay gap, with women earning on average 82 per cent of what men earn. Further analysis of the data reveals that the earnings gap between men and women can largely be explained by the individual worker characteristics (crowdworking experience and educational level) and women’s domestic responsibilities. Thus, even in the absence of employer discrimination, domestic responsibilities, which are overwhelmingly shouldered by women, significantly affect how they carry out their work (e.g. accepting low-paid micro-tasks) and, in turn, what they can earn. *Adams and Berg*, therefore, see a need to institute policies that address the sexual division of labour in the household such as parental leave policies, as well as the public

provision of childcare and elder care services to ease the burden of individual care responsibilities. They also recall that crowdwork is currently not regulated by labour law, a fact affecting the overall level of earnings and working conditions of crowdworkers.

In Chapter 7, *Gurchaten Sandhu* gives an overview of the international legal instruments that protect lesbian, gay, bisexual, trans and intersex (LGBTI) people in the world of work, noting in particular the International Covenant on Economic, Social and Cultural Rights (ICESCR) and ILO Conventions; the guidelines and principles set out in General Comment No. 23 of 2016 by the United Nations Committee on Economic, Social and Cultural Rights regarding equal remuneration, equality of opportunity, and freedom from harassment, including sexual harassment; and the Yogyakarta Principles, a set of international legal principles on the application of international law to human rights violations based on sexual orientation, gender identity, gender expression and sex characteristics. He shows that despite the breadth of protection that these instruments offer, in reality LGBTI people continue to face discrimination, violence and stigmatization prior to entering the labour market, throughout the employment cycle and with respect to social protection rights. *Sandhu* offers evidence of LGBTI people facing discrimination in hiring processes, their lack of career prospects and the challenges they face in accepting geographical mobility assignments in duty stations where same-sex intimacy is illegal. He also provides data on LGBTI workers' pay gaps and their exposure to harassment and being victims of hate crimes, and shows how factors not directly related to work – such as education and legal gender recognition – can impact LGBTI people's chances in the labour market. His main message is that a universal labour guarantee alone is not enough to ensure that LGBTI people have gainful and decent employment. In reflecting on *The future of work for LGBTI people*, he calls for structural changes and better-designed policies to ensure LGBTI people's full and equal participation in the labour market.

Chapter 8 addresses *Ageing in diverse societies*, with a focus on European countries. *Ruxandra Oana Ciobano* brings together two topics of scientific, societal and political relevance: international migration and population ageing. Her probing analysis of diversity among older migrants will dispel any remaining illusions that all members of this group are equal. Differences exist according to types of migration (permanent, temporary, return, transnationalism, step-by-step and multiple migrations) but also according to age groups (the "young old", the "old" and the "oldest old"). Building on existing typologies, *Ciobano* describes emerging categories of older migrants: Amenity-seeking international retirement migrants, who migrate at an advanced age from the North to the South of Europe and increasingly also to other destinations, but also those who cannot make ends meet in their country of nationality and move to places with lower living costs; older international labour migrants who have aged where they worked; and linked to this, return labour migrants; parents of

labour migrants who move to take care of their grandchildren; older refugees; late-in-life labour migrants; and others. *Ciobano* points out that older migrants enjoy different rights based on their immigration status and may have fragmented labour market participations between one, two or more countries with ensuing pension issues. In addition, their place of residence can be in the country of destination, in the country of origin, following a return migration, and/or they can engage in transnational migration, living for periods of the year in different countries. This adds to the complexity of assessing the situation of older migrants and the diversity can have implications for the organization of social welfare for older persons. Finally, *Ciobano* reflects on the diversity in the old-age environment more broadly, and the need for “diversity-sensitive” programmes and services.

Discrimination and violence that impede diversity

Chapters 9, 10 and 11 all refer to stereotypes and biases, sometimes unconscious biases, that prevent workers who are not considered the “typical worker” in a given environment or are otherwise in a minority position from fully participating in the labour market on equal footing with those who are considered “the norm”. At the same time, stereotypes and biases leading to discrimination and violence, whether in blatant or subtle forms, also hinder the creation of more diverse workforces because “minority workers” are discouraged and leave the places where they are abused – often with scarring effects on their future careers. Inequalities are thus perpetuated. These chapters also tell the story of the privilege of invisibility for members of majority groups. Although all three chapters work with empirical data from the Canadian province of Quebec, the questions that the authors raise are highly relevant in other contexts and the theories they use are applicable worldwide.

In Chapter 9, *You think you’re “one of the boys” but you never really are*, *Laurence Hamel-Roy and Élise Dumont-Lagacé* examine the impact of discrimination and violence on women’s ability to remain employed in Quebec’s construction industry. They set out with a short statistical description of women’s situation in this industry, which is recognized as one of the “last bastions of masculinity” in the labour market of the province, and ask why a far larger share of women than men leaves the sector (56 per cent of women as compared to 35 per cent of men after five years), often for good. Explanations include the following: a “construction site culture” that values competition, pride and physical strength; an environment of intimidation where the basic rights of women workers are not respected; employers who openly distrust women’s skills in the trade and convey the message that women at the worksite will mean trouble; and a high visibility owing to the low numbers of women workers. These problems are amplified by the organization of work in an industry where short-term contracts are frequent and linked to individual construction sites,

with high competition among workers for sites offering more stable employment. *Hamel-Roy and Dumont-Lagacé* develop a typology of violent acts of a sexist or sexual nature and the effects that these acts have on the career paths of women in the construction industry. They look at violence stemming from the organizational culture of construction sites; at attacks on women workers' physical and psychological integrity; the precariousness of the employment relationship; and the role of institutions. They also discuss the "hypervisibility/invisibility paradox", where policy interventions intended to make women in the industry visible so as to attract more of them to this line of work may backfire by giving the impression that women enjoy advantages that do not exist in reality.

Discrimination and violence against workers who are "different" from the majority of staff in terms of gender, race, ethnicity or other characteristics occur in many places, including in workplaces where they are least expected. In Chapter 10, *Jade Almeida and Marlihan Lopez* study feminist organizations as employers in *Feminist workplaces: "Safe spaces" for black women?* They explain that in Quebec, the women's movement was built around the experience of a certain type of woman: a white woman, francophone, a citizen, of middle class, without disability. The discrimination and violence experienced by black women is often based on stereotypes that have affected black women since the time of slavery. Black women are often seen as "welfare queens", abusing the social protection system; as sexually insatiable "jezebels", justifying sexual violence; as "nannies", further perpetuating the association between black women and a service orientation; or as the "matriarch" embodying a refusal to remain "in her place", sustaining the stereotype of the "angry black woman". Based on field work, *Almeida and Lopez* show how the various types of discrimination and violence experienced by black women are specific when deployed in a feminist environment. The chapter concludes by outlining victims' survival strategies, and with a call for "re-politicizing" the concept of intersectionality. *Almeida and Lopez* question intersectionality as a useful analytical tool, if the concept no longer serves to analyse power structures and fails to reveal systemic discrimination and racism.²

In Chapter 11, *Karine Bellemare and Éric Charest* show how certain comments and attitudes can generate blatant and subtle forms of discrimination and racism that, in turn, have implications for the career prospects of people who are the targets of these behaviours. They observe that following national prohibition of

2 Intersectionality is a theoretical framework that considers various aspects of an individual's social identity in combination, rather than analysing each factor in isolation. Overlapping and interdependent systems of discrimination or disadvantage can thus be detected. Kimberlé Crenshaw (1989) first coined the term in exploring the oppression of black women. Meanwhile, particularly since the onset of the so-called "fourth wave of feminism", intersectionality analysis includes numerous aspects of social identity besides race and gender, such as sexuality, class, ability, nationality, citizenship, religion and body type. Such large expansion, which leads to a focus on subjective experience, runs the risk of impeding identification of the common causes of oppression.

direct discrimination, certain societies have moved into a state of denial about racism and sexism where “modern”, more subtle forms of discrimination are thriving. *Bellemare and Charest* make a plea for *Recognizing the legitimacy of a deep unease* and for improving the analysis of systemic discrimination by incorporating microaggressions in its conceptualization. Their considerations are grounded in research that has monitored the labour market integration of highly skilled racialized immigrant women in Montreal. This research, inter alia based on semi-structured interviews, distinguished between three groups of highly qualified immigrants: those who work in positions for which they are largely overqualified; those whose work requires mid-level qualifications; and those whose job corresponds to their level of education. Although some racialized immigrant women succeeded in attaining a certain formal equality by regaining their profession of origin or an equivalent position, real equality remains at a distance because all interviewed women reported having experienced discrimination. *Bellemare and Charest* reveal “environmental microaggressions” and “behavioural microaggressions”, and find that employers are by far not the only perpetrators of discrimination. A variety of actors can interfere in the daily lives of highly skilled racialized immigrant women and do so throughout the entire labour market integration process, whether they are classmates or teachers, recruiters, co-workers, patients, clients, internship supervisors or superiors.

Exclusion by design and how to overcome it

Political discourse plays a major role in the production and reproduction of inequalities in a society. The ways in which political elites in a society talk about immigrants, race, gender, LGBTI, etc. contribute through media coverage to shaping public opinion and ultimately to opportunities and outcomes in the labour market for different groups of workers and individual workers. Political elites (whether in government, business, trade unions or courts) are also the ones who make the decisions concerning the appropriate ways to combat discrimination, manage immigration flows, allocate resources, etc. In this respect, it is essential to analyse the various discourses in order to understand the political agenda, including its more tacit dimensions. The chapters that come under the section on **Exclusion by design and how to overcome it** provide such an analysis. They also shed light on the policy dilemma between giving “space” to the individual, respecting individuals with all their particularities, and countering structural inequalities, as with affirmative action. The latter requires categorization into groups, often with a focus on only one characteristic (sex, ethnicity, etc.) to make a difference. There are, however, numerous complications with categorization and the legal consequences attached to categorizing people or acts (e.g. distinguishing between direct, indirect and systemic discrimination), and complexities can get in the way of equity.

In Chapter 12 on *The polymorphic conception of systemic discrimination: Unions between discourse and action in Quebec*, **Diane Gagné** asks why discriminated persons in Quebec do not always succeed in the enforcement of their equality rights despite the legislator's desire to increase the protection of workers against discrimination in the labour market. She finds part of the answer in legal inefficiencies and another in the way different labour market actors, including trade unions, use and interpret legal provisions regarding equality and equity. Her research shows that trade unions tend to refuse to see disparity of treatment and precariousness as discrimination, either out of ignorance or because of the legal invisibility of the people concerned. Local union executives are unfamiliar with the concept of discrimination. Their knowledge is often limited to direct discrimination, while complainants allege indirect discrimination – disadvantaging more recently hired employees, and therefore often younger workers. The absence of a diverse workforce is not seen in terms of discrimination. Among other things, **Gagné** explains the unions' lack of understanding – as well as that of other labour market actors – with the polymorphic conception of discrimination which stems from the interlinkages of different equality standards (the Canadian and Quebec Charters of Rights and Freedoms, the Quebec Labour Code and Labour Standards Act) and different modes of discrimination, namely direct discrimination (which is acknowledged if there is intent and a prohibited ground), indirect discrimination (by harmful effects) and systemic discrimination (rules set up as a system). The question also arises of whether one looks at formal equality or equality of outcomes (equity). The complexities of the law have thus contributed to sustaining processes of systematic discrimination and **Gagné** concludes that only State action can remedy these issues.

State action would also be needed to prevent the racialization and segmentation of the Canadian labour market currently created by temporary foreign workers programmes, according to **Eugénie Depatie-Pelletier, Hannah Deegan and Marie-Éveline Touma**. In Chapter 13 on *State restriction of workers' rights to equality, liberty, security and access to justice through employer-tied labour (im)migration programmes*, they describe migrants' exclusion via programme design and suggest ways to overcome this. Temporary foreign workers programmes that have become a worldwide phenomenon usually rely on a variety of State-implemented obstacles to workers' ability to exit their employment relationship, by associating the act of quitting or losing one's job with risks of one or several State sanctions, such as nullifying the authorization to work or reside in the country. **Depatie-Pelletier, Deegan and Touma** show how these schemes have led to worker segregation in Canada and how low-skilled migrants in particular, often from developing countries, have no possibility of integrating (whereas highly skilled migrants, mostly from industrialized countries, who come under the Canadian Mobility Program are more privileged). Among the key elements for better-designed temporary labour migration they cite: the

criminalization of offering employer-tying work arrangements; independent access to legal status renewal and consolidation procedures; government-run national inspection and (re)placement services; and government-funded unbiased community integration services.

Christiane Kuptsch and Fabiola Mieres also look at migration policies in Chapter 14, wondering *Who is a “migrant” in diverse societies?* They reveal how complex labelling exercises bring conceptual blurriness with consequences for migrants and refugees as well as the nature of policymaking itself. They analyse perspectives on migrants as mobile people or settlers and examine specific regulations and definitions of “migrant” in selected European countries (such as the concept of “migration background”). *Kuptsch and Mieres* emphasize that semantics matter, by reflecting on the notion of “migration/refugee crisis” and on the current use in populist discourse of various terms. They show how populist discourse often operates with calculated ambiguity and treats migrants as an undifferentiated group to create fear of being overwhelmed by “Others”. Moreover, where people are perpetually treated as “migrants” through the use of concepts such as “second- and third-generation migrants”, this can have consequences for social cohesion. “Classifying people” can become a tedious enterprise, and a concern for integration policies. *Kuptsch and Mieres* also reflect on the question of targeted versus mainstream integration policies and propose that in future, migration and integration research might have to move towards new units of analysis. To reduce societal and labour market exclusion, they suggest “whole of the population” approaches by treating integration and diversity issues as labour market institution subjects.

Similarly, *Natalie Rinfret, Francine Tougas and Ann M. Beaton* explore solutions for the future and call for taking inclusive approaches. In Chapter 15, *Rethinking diversity*, they focus on subtle forms of discrimination, as when employees are rendered “invisible” because no one ever asks them for their opinion or their standpoints are never taken into account, and on less visible effects of employment discrimination such as psychological disengagement and demotivation of individuals. Two mechanisms incite a person to withdraw psychologically from an environment that is inhospitable to one’s group: discounting and devaluing. “Discounting” is adopted to evade criticism and bad performance evaluations by giving them little, if any, meaning. Through “devaluing”, work no longer occupies a primary place in one’s self-image. Both behaviours can result in diminishing self-esteem, the creation of personal glass ceilings and reluctance to engage in knowledge sharing, as studies of women workers and older workers demonstrate. To advance equality and diversity in enterprises and other organizations *Rinfret, Tougas and Beaton* propose what they call a hybrid model that, in a first phase, combines target-oriented diversity management programmes with legal protection against discrimination and, in a second phase, moves towards the establishment of inclusive organizational cultures, inter alia with the help of

transformational leadership. The conclusions of *The future of diversity* espouse this idea in greater detail by reflecting on policy needs and research gaps.

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Part

1

**Diversity management
and the economic
case for diversity**

► Unpacking the business case for gender diversity

Jae-Hee Chang

Overview

There is mounting evidence around the globe that promoting gender diversity among employees, management and boards can be a business boost and a boost to economies. Numerous research and enterprise surveys indicate that having more women in decision-making positions can improve profitability and business outcomes. There is also growing recognition of the added value of having diverse workforces that mirror consumer profiles. Meanwhile, data show that more women than men are completing higher education and across diverse disciplines, meaning there is a growing talent pool of experienced and educated women to meet critical skills needs.

This chapter examines the business case for gender diversity by exploring how enterprises are integrating women's representation in the workplace, particularly in management and boardrooms, as a key component of their business strategy.¹ From the analysis of existing datasets and the ILO's survey-based research on *Women in Business and Management*, the conclusion is that improving gender diversity in the workforce at all levels benefits not only women, but also enterprises, economies and societies.

The ILO global enterprise survey on Women in Business and Management

The global enterprise survey on *Women in Business and Management*, conducted together with employer and business membership organizations (EBMOs), included nearly 13,000 surveyed enterprises in 70 countries across five regions (Africa, Asia and the Pacific, Europe and Central Asia, Latin America and the Caribbean, and the Middle East and North Africa). The survey was conducted in 15 languages and over three months, from November 2017 to January 2018. The surveyed enterprises were categorized by number of employees as

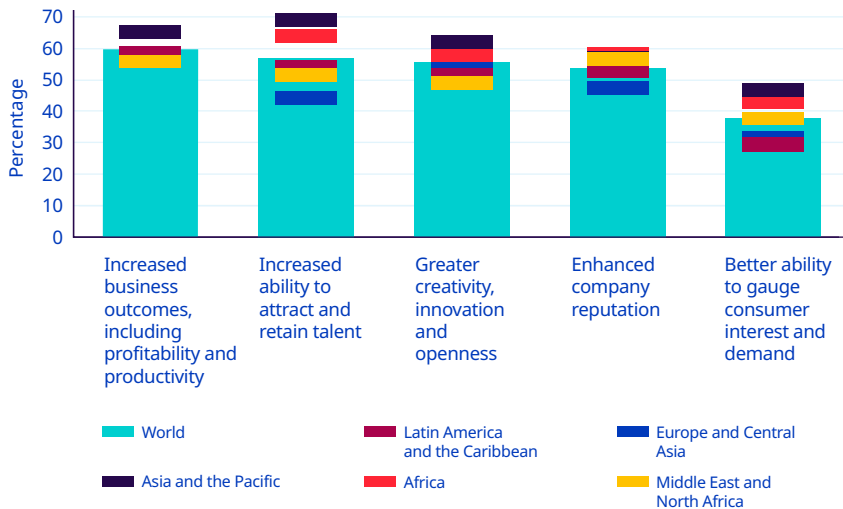
¹ The findings in this chapter are from ILO (2019).

small, medium or large.² Respondents were in decision-making positions, with 53.4 per cent responsible for departments or business units and 46.4 per cent managing a team of people. Of the survey respondents, approximately 60 per cent were men and 40 per cent women.

The business case for gender diversity

The most salient finding of the survey is that gender diversity is a smart business strategy: lack of gender diversity could impede enhanced business performance. Most enterprises, in all size categories, reported that gender diversity helps improve business outcomes (see figure 1).

► **Figure 1. Share of enterprises reporting improved business outcomes resulting from initiatives on gender diversity and equality, results by world and region**



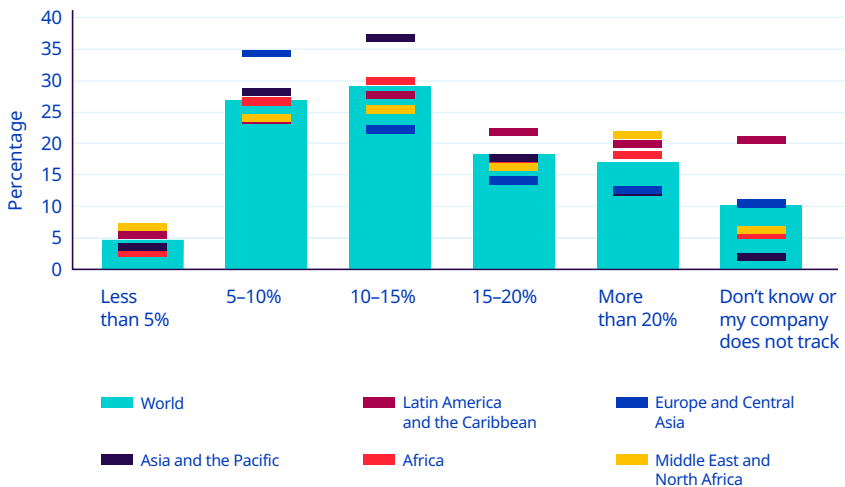
Source: ILO (2019).

² Micro enterprises (employing no more than two workers) accounted for less than 0.05 per cent of the global sample and, therefore, are not included in the analysis presented in this research.

Through probabilistic modelling of the data gathered, our research quantified the extent to which business outcomes may be improved by an inclusive business culture and inclusive company policies.³ It was found that such companies are over 60 per cent more likely to have improved profits and productivity, and they are almost 60 per cent more likely to experience enhanced reputation; greater ease in attracting and retaining talent; and greater creativity, innovation and openness to new ideas and approaches.

Of the enterprises surveyed that tracked the quantitative impact of gender-diversity initiatives on promoting women in management, nearly 74 per cent reported a profit increase of between 5 and 20 per cent (see figure 2). The assessment further shows that enterprises with a gender-inclusive culture are 9 per cent more likely to have improved business performance. These are significant numbers, considering the measures companies take to squeeze out 2–3 per cent increases in margins. Other similar surveys and research confirm the result of increased profit with increased gender diversity. While evidence clearly indicates that gender diversity at the top improves organizational performance, progress remains uneven and many challenges remain.

► **Figure 2. Share of enterprises reporting increased profit resulting from initiatives on gender diversity and equality, results by world and region**



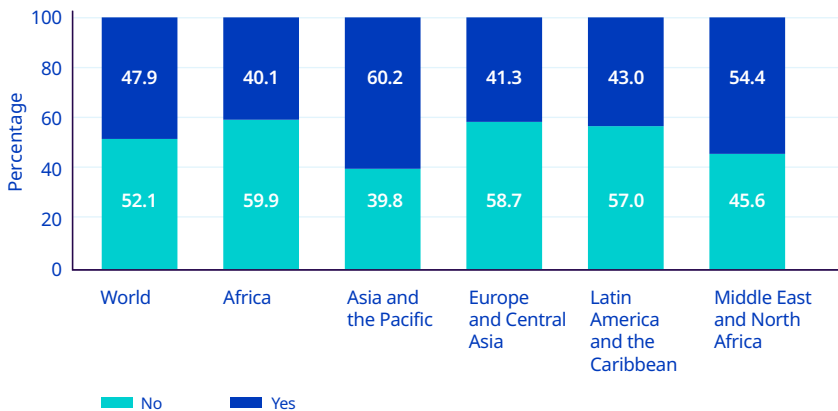
Source: ILO (2019).

³ An inclusive business culture is one in which the working environment values the individual and group differences within its workforce. It enables an enterprise to embrace the diversity of backgrounds and perspectives of the employees, which in turn increases their innovation, creativity and contributions.

The obstacles: From the classroom to the boardroom, and beyond

Globally, of those completing tertiary education the majority (53.3 per cent) are women. However, in highly demanded fields of study, including science, technology, engineering and mathematics (STEM) disciplines, men continue to dominate. While in a few countries women are on par with men in these disciplines, the global share of women among total tertiary STEM graduates averages 37.8 per cent.⁴ Although women are raising their qualifications, nearly half (47.9 per cent) (see figure 3) of the enterprises surveyed found the retention of skilled women in their business difficult, and further evidence shows that promotion is a challenge. The more senior the position in a company, the smaller the share of women. The disappearance of women between lower and upper management positions has been termed the “leaky pipeline”.

► **Figure 3. Share of enterprises according to whether retention of skilled women is a challenge for their organization, results by world and region**



Source: ILO (2019).

Even when enterprises succeed in promoting women into middle management, they may still find it challenging to advance women to the highest levels of management. This is because women’s roles in management are often limited to certain functions, such as human resources, finance and administration, and sales and marketing. These divisions are less strategic and have less influence on corporate direction than do research and development, or profit and loss

⁴ United Nations Educational, Scientific and Cultural Organization – Institute for Statistics (UNESCO-UIS), 2019.

functions that most often lead to higher-level positions. This segregation of management roles that are seemingly at the same level has been termed “glass walls”. It is this function-based segregation that caps many management roles beneath a “glass ceiling”, blocking promotion to more strategic positions in top management and on boards.

Working from the top

Studies suggest that the benefits of gender diversity for business are most evident when a critical mass of women is present in decision-making positions.⁵ In the boardroom, this tipping point was reached by one third of the enterprises surveyed. Research has shown that when top executive positions and boards are gender diverse, there are more women in middle and senior management positions (avoiding the leaky pipeline), less occupational gender segregation (helping to eliminate the glass walls), and a more inclusive workplace environment overall. Enterprises can gain from gender diversity, and need to actively recruit women, retain women and have women consistently reaching the highest levels of management.

Women’s share of the workforce and management with a target of 30 per cent or more

Survey results show a steady decrease in the share of women as the level of responsibility rises. Within the general workforce of the enterprises surveyed, 74 per cent had more than 30 per cent women employees. Progressing through the various levels of responsibility, the largest drop by percentage is from the general workforce to entry-level management positions (supervisory, junior or administrative roles), where only 51.2 per cent of the surveyed enterprises had more than 30 per cent women. The share of enterprises having 30 per cent or more of women continues to decrease through middle management (48.5 per cent) and senior management (43.1 per cent), to top management (41.8 per cent) as the lowest. Ten per cent of the enterprises surveyed had no women at the top management level.

All regions follow the trend of the global findings with a lower share of women at progressively higher levels of management; however, there is variation between regions and within regions in achieving the 30 per cent threshold of women in management. In more than half the countries in Africa, Asia and the Pacific, and Europe and Central Asia, women have achieved a 30 per cent or more share of

⁵ A 2016 MSCI study found that companies with at least three women at board level in 2011 experienced a median increase in return to equity of 10 percentage points and earnings per share of 37 per cent by 2016. This critical mass changes both the way the board is run and the way women are able to share their insights (Thwing Eastman, Rallis, and Mazzucchelli, 2016).

management positions. In the Americas, all but four countries have exceeded the 30 per cent threshold. The Middle East and North Africa remains the only region in which no country has reached this point.

The survey results also show a smaller share of enterprises with 30 per cent or more women in senior management and top executive positions at larger enterprises (40 per cent) and medium-sized enterprises (41 per cent) compared to smaller enterprises (48 per cent).

Enterprises that have a gender-balanced workforce (40 to 60 per cent of either sex), have improved women's representation in junior, middle and senior management. These enterprises also showed, however, the same trend of a declining share of women as the level of management rises. A study by the World Bank reflected a similar decline in comparing the share of women as permanent full-time workers of enterprises, recorded at 30.5 per cent, to the share of top management of enterprises, recorded at only 18 per cent.⁶

Why 30 per cent?

Thirty per cent is the women's share of management positions considered in gender politics and collective political action as the critical mass or tipping point at which the representation of women begins to influence an institution/enterprise and its decision-making, ensuring that gender diversification is diffused throughout the organization.

Women in chief executive positions

While the share of women decreases in the rise in hierarchy from general employment, to lower and middle management, then further to senior and executive management positions, the drop in the share of women in the position of CEO is even more significant. Reportedly, only 22 per cent of all CEO positions globally are occupied by women (see figure 4).

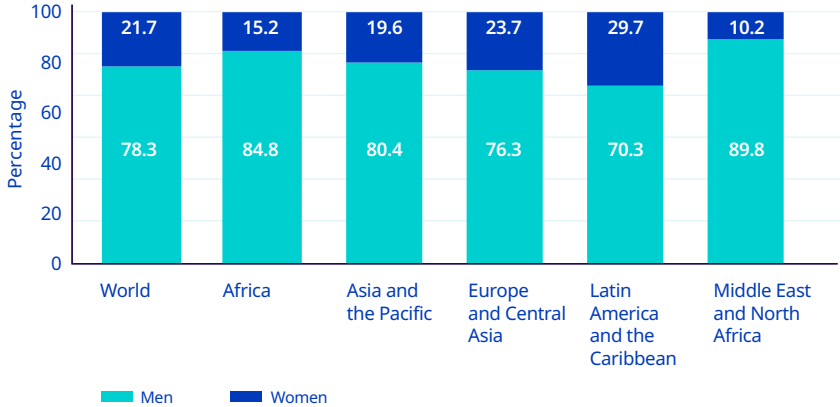
The share of enterprises headed by a woman CEO was found to decrease as the size of enterprises increases: 26 per cent of small enterprises have women CEOs, compared with 20 per cent of medium-sized enterprises and 16 per cent of large enterprises.

The ILO survey assessment confirms that when the CEO of an enterprise is a woman, incentive for gender equality can be seen in the following:

- ▶ The enterprise is 3.2 per cent more likely to have gender balance at the middle management level;
- ▶ The enterprise is 6.6 per cent more likely to have gender balance at the senior management level; and
- ▶ The enterprise is 3.9 per cent more likely to have gender balance in executive management positions.

⁶ World Bank Enterprise Surveys. Available at: www.enterprisesurveys.org.

► **Figure 4. Gender of the CEO in enterprises, results by world and region**



Source: ILO (2019).

Getting on the board

In the same vein, when a board includes women board members, and particularly when a board is gender-balanced or chaired by a woman, there is a positive impact on the share of women in management. For example, when the board is gender-balanced, that is, demonstrates 40 to 60 per cent of either sex:

- Enterprises are 3.1 per cent more likely to have women in senior management positions; and
- Enterprises are 6 per cent more likely to have women in top executive positions.

Moreover, survey findings show that as the proportion of female board members rises, enhanced business outcomes become increasingly likely for the enterprise:

- With a 30 to 39 per cent share of women in the boardroom, enterprises are 18.5 per cent more likely to have improved business outcomes;
- When boardrooms are gender-balanced, enterprises are likely to have the strongest performance, almost 20 per cent more likely to have enhanced business outcomes.

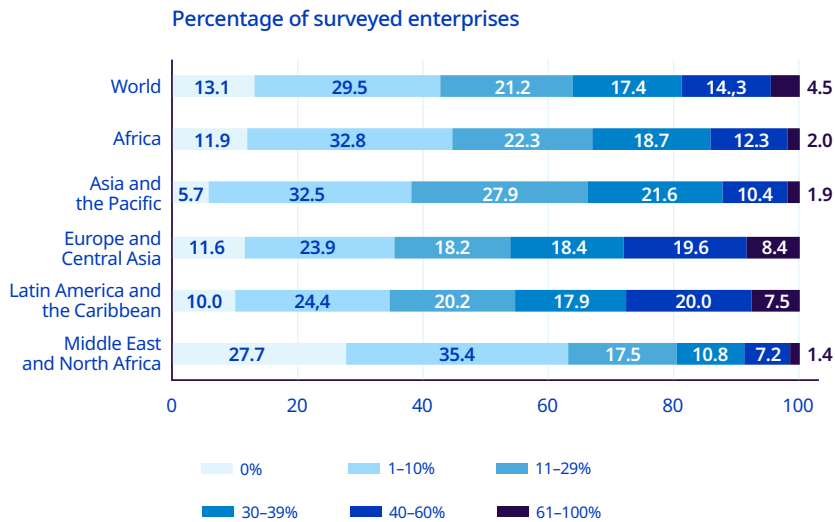
On the contrary, when a board has no women members, the impact on the share of women in management is negative. For example, in an enterprise with

an all-male board, there is almost 8 per cent less likelihood of attaining gender balance in middle management.

The positive and negative impacts of board composition clearly show that having women on boards is critical to providing the mass necessary for influencing decision-making.

Seventy per cent of the enterprises surveyed globally have a board of directors. Of these, 31.7 per cent have a 30 per cent or greater share of women on the board (see figure 5), whereas 13.1 per cent of the enterprises have no women on the board of directors. The share of women on boards varies considerably across regions. The largest share of women on boards at 30 per cent or more was found in Europe and Central Asia (46.4 per cent), while North Africa and the Middle East had the lowest (19.4 per cent). There were no women on the boards of 27.7 per cent of the enterprises in North Africa and the Middle East.

► **Figure 5. Share of enterprises reporting the proportion of female board members, results by world and region**



Source: ILO (2019).

Glass walls, leaky pipelines and glass ceilings

The leaky pipeline and glass ceilings limit the vertical advancement of women, and glass walls present another barrier on the way to the top. Glass walls restrict progression even when men and women are on the same hierarchical level by segregating functions and placing women in less strategic and

non-decision-making positions whereas men occupy roles that lead more directly to promotion to the highest positions. This practice limits opportunities for women as candidates for top executive, CEO and board positions.

The gendered division of management functions suggests possible stereotyping in recruitment and promotion processes. It may also suggest that women and men pursue different studies prior to employment. As more women diversify into STEM disciplines, this may help desegregate management functions based on qualifications. However, this alone may not be enough to remove glass walls and other barriers that keep women from reaching the highest levels of management. Efforts to overcome gender bias within enterprises are pressing. While according to the survey over 73 per cent of enterprises globally have equal opportunity or diversity inclusion policies, research shows that statistically these are not delivering on results. For example, a 2017 McKinsey and Company report found that, globally, women are 18 per cent less likely to be promoted than their male peers.

The ILO survey finds that having a woman CEO has a positive effect on overcoming the glass wall obstacles, raising the probability of women occupying strategic middle management and senior management functions. Specifically, when the CEO is a woman, enterprises are:

- ▶ 6.9 and 7.2 per cent more likely to have women in middle and senior management in profit and loss functions, respectively;
- ▶ 2.8 and 6.8 per cent more likely to have women middle and senior managers in operations, respectively; and
- ▶ 6.8 and 12.6 per cent more likely to fill middle and senior general management positions, respectively, with women.

The board chairperson holds considerable influence over efforts to remove the barriers, or walls, that prevent women from reaching the highest levels of management. Enterprise survey assessment shows that having a female chairperson brings positive impact to addressing the glass walls within management positions. Here, companies are:

- ▶ 4.8 and 6.5 per cent more likely to have women middle and senior managers in profit and loss functions, respectively;
- ▶ 3.4 per cent more likely to have female middle managers in operations; and
- ▶ 4.9 per cent more likely to have women as senior general managers.

Research further shows that even when women do reach board level, glass walls remain. Women are more likely to be on non-executive boards than on executive or supervisory boards, or appointed executive directors, the board functions with the highest decision-making power.

The gender pay gap

The pay difference between women and men is a measurable indicator of inequality. Even when women with equal qualifications can obtain employment in the workforce or in management positions at the same level as men, they may receive less pay. The pay gap between women and men has declined in some countries, but it remains significant globally with global estimates in 2018 at 22 per cent of median monthly wages (ILO, 2018b). There are also variations in the pay gap by countries, and within enterprises. In management, ILO data show that the gender pay gap can range from 0 to 60 per cent, and in 43 countries the management gender pay gap is higher than the overall gender pay gap.

In some cases, occupational segregation places women in management roles that are considered support management functions, such as human resources and administration, where pay is less. In most countries, however, the pay gap is largely due to discrimination, whether direct or indirect (ILO, 2018b). World Bank data also indicate that there is no difference in the educational levels of women in Europe (in fact young men and boys are falling behind), yet women still receive lower wages than men of the same age (Inchauste, Munoz-Boudet, and Buitrago Hernandez, 2018). The ILO Equal Remuneration Convention, 1951 (No. 100), is one of the most widely ratified conventions by ILO Member States, yet the principle of “equal remuneration for work of equal value” is complex, as often the comparison of “like with like” is not applied.⁷ Some governments are taking a regulatory approach by introducing pay gap reporting. At the international level, the ILO, together with the OECD and the United Nations Entity for Gender Equality and the Empowerment of Women launched the Equal Pay International Coalition in 2017 to support governments, and employers’ and workers’ organizations to take steps to reducing the gender pay gap. To do so successfully, enterprises need to overcome the barriers of discrimination, structural inequalities and integrate women into the labour market.

Assessing corporate culture and perceptions of leadership

According to the ILO enterprise survey, globally, 40.3 per cent of the respondents indicated that their corporate culture was inclusive, 38.9 per cent indicated that theirs was male-dominated and 21.8 per cent indicated that theirs was female-dominated. Of those who indicated that their company culture was

⁷ The principle of “equal pay for work of equal value” is still often misunderstood and is considered to be equivalent to the narrower notion of “equal pay for equal work”, which reduces the scope for comparison to men and women doing the same work rather than work that is of a different nature but of the same value. While comparing the value of jobs in different occupations or different sectors remains a complex undertaking, the gradually expanding use of job evaluation techniques is facilitating implementation of this principle.

male dominated, 90 per cent came from companies that have a male CEO. A gender-inclusive enterprise culture is likely to have women in middle and senior management, and top executive positions. Findings show that enterprises with a gender-inclusive culture are 9 per cent more likely to have improved business performance than those without such a culture.

Globally, 76.4 per cent of survey respondents agree or strongly agree that their corporate culture mirrors the traditions and social norms of their society. Therefore, work on eliminating gender bias needs to begin in families, schools and society at large, in support of gender-inclusive corporate cultures that improve business outcomes and competitiveness.

Gender bias/discrimination in business makes it more difficult for women to be promoted. A symptom of gender bias surfaced in one of the survey findings: 46.6 per cent agree or strongly agree that women with equal skills and qualifications to men encounter greater difficulties in reaching top management positions. However, when considering the gender of the respondent, more female respondents agreed or strongly agreed (52 per cent) that women with equal skills and qualifications encounter greater difficulties reaching top management compared with their male counterparts (45.5 per cent).

When asked about leadership, there was a wider variation between female and male respondents. While globally, 83.4 per cent of respondents agreed or strongly agreed that women lead just as effectively as men, the breakdown by gender reflects a 14.4 per cent gap between the share of women who agree or strongly agree (91.3 per cent) and men who agree or strongly agree (76.9 per cent). The share of men who disagreed or strongly disagreed was nearly 20 per cent (19.9 per cent), and the share of women who disagreed or strongly disagreed was nearly 7.5 per cent.

Constant availability and alternatives

Seventy-seven per cent of respondents agree or strongly agree that a top-level career implies an “anytime, anywhere” availability to work, and geographic mobility. Constant availability, often a requirement for success within enterprise culture, conflicts with efforts to have a work-life balance, particularly for those responsible for family and house care.⁸

Changes to “anytime, anywhere” availability not only improves work-life balance, but also improves productivity. Some enterprises are introducing technologies that replace the need for geographical mobility, as well as allowing for flexible work arrangements. With the implementation of flexible work and/or remote or

⁸ The ILO estimates that women perform 76.2 per cent of the total amount of unpaid care work, 3.2 times more than men (ILO, 2018a).

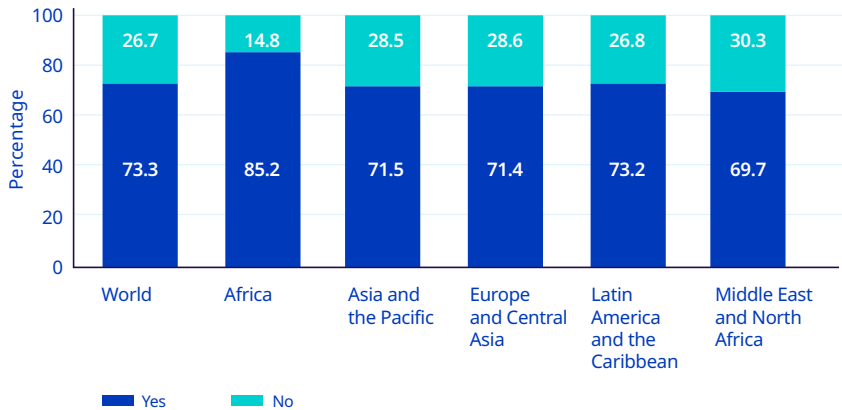
telework arrangements (61 per cent of the enterprises surveyed), 69.7 per cent reported greater productivity.

Enacting change with policies and initiatives

Survey findings globally indicate that over 73 per cent of enterprises have an equal opportunity policy or diversity and inclusion policy in place (see figure 6). Analysis of these findings show that enterprises with these policies help increase the share of women in management positions.

- ▶ These enterprises are 3.9 per cent more likely to have women in middle management;
- ▶ They are 5.9 per cent more likely to have female senior managers;
- ▶ They are 4.5 per cent more likely to have women in top executive roles.

▶ **Figure 6. Share of enterprises with equal employment opportunity or diversity and inclusion policies, results by world and region**



Source: ILO (2019).

In addition to general policies, various human resource initiatives can help improve conditions for women in enterprises. Respondents ranked the following as having the greatest impact in promoting greater female participation, by world average, in order from highest to lowest:

- ▶ Recruitment, retention and promotion (67.7 per cent);
- ▶ Skills training/executive training (59.3 per cent);
- ▶ Maternity leave (53 per cent);

- ▶ Remuneration (52.5 per cent);
- ▶ Flexible working hours (47.2 per cent).

Where we are and where we need to be going

Today, women are surpassing men in educational levels in most countries. In many countries women's share of professional jobs has reached parity and beyond. In management and as business owners, women's share is growing.

Numerous studies are showing that undervaluing women's work and skills leads to a loss of resources for the economy, and studies on the business case for inclusion have shown that gender balance at all levels of an organization, especially at the top decision-making levels, leads to improved business outcomes. However, the principal benefit of gender diversity and inclusion at all levels is one of social justice – simply put, discrimination based on gender is unlawful and undermines the dignity and worth of people.

The enterprise survey results reflect the positive relationship between greater gender diversity and profit margins, as well as a wider range of business outcomes. We have learned that enterprises with a gender-inclusive business culture are significantly more likely to reap the benefits of improved outcomes derived from inclusion policies. Gender diversity and inclusion requires on-going work to enable enterprises to harness an inclusive organizational culture, one that embraces the ideas and perspectives of all employees and recognizes their contributions and efforts, regardless of their gender. A one-off policy is wholly insufficient.

Moving forward, employers and business membership organizations are strategically positioned to advocate that gender diversity is good for business development and sustainability. They should guide their member companies and business associations with the right tools to support this. Action is more urgent in view of the anticipated changes and complexity of labour markets in the future. National governments and regional bodies need to support these efforts.

Governments and private institutions working together can remove barriers for women, namely by challenging the "anytime" performance model and the prevailing gender bias in terms of leadership. This implies starting to advocate a gender-inclusive culture in families, communities and schools, as well as in the labour market and workplaces. This should also include addressing the gender pay gap: a clear indicator of inequality that negatively impacts economic growth and development. A gender-inclusive culture also requires a breakdown of occupational segregation of the labour market into jobs that are perceived and valued differently.

A more expansive approach to diversity and inclusion also needs to be examined to consider how diversity across age, disability, country of origin, gender, race, ethnicity, nationality, and people living with HIV and AIDS, as well as intersectionality, are taken into account in enterprise approaches to diversity and inclusion. The COVID-19 crisis has magnified long-standing social inequalities into sharp focus and the potential opportunities this opens for progress and change on diversity and inclusion are considerable. International organizations like the ILO are well-positioned to undertake further research in the field of diversity and inclusion to address issues, particularly around the factors underlying limited progress on diversity and inclusion, and in learning from challenges as well as good practices.

Sustaining gender diversity: The virtuous cycle

The business case for gender diversity is compelling, particularly in terms of increasing the proportion of women in management and on boards. The full support and accountability of managers at all levels is critical, especially for ensuring that top management is visible and vocal in advocating for gender diversity and an inclusive business culture. From this, a virtuous circle can evolve. A more gender-balanced workforce can lead to more women CEOs and in turn, to more women on boards. More women on boards increases the appointment of more women CEOs, which leads to a more gender-balanced workforce and overall, a workplace that is more diverse, equitable and inclusive.

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► The tone at the top: Challenging diversity

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Introduction

Board diversity, including the presence of women, is an essential element in the development of organizations. Diversity is said to improve financial performance (Campbell and Mínguez-Vera, 2008; Miller and del Carmen Triana, 2009), stock market performance (Credit Suisse, 2012; Gul et al., 2011), and non-financial performance (Bernile, Bhagwat, and Yonker, 2018; Bernardi and Threadgill, 2011). An increasing body of knowledge suggests that when an organization cares about diversity, its decision-making processes improve, its actions become more legitimate and its reputation is enhanced (Bear, Rahman, and Post, 2010; Galbreath, 2011). Yet, two thirds of boards still do not have a critical mass of women to favourably change boardroom dynamics (Catalyst, 2020).

The position and treatment of women in business circles recurrently appear in newspaper headlines and political party agendas (Clark, 2010), and numerous observers publish board diversity surveys (e.g. Canadian Securities Administrators, 2018; Catalyst, 2020; Deloitte, 2018; Equilar, 2018, 2020; European Women on Board, 2018). Despite numerous studies that have prompted regulatory, shareholder, activist and individual initiatives to ensure equal opportunities for women and some measurable improvement, progress is still much too slow.

This chapter aims to identify some of the main causes of the lack of gender diversity on boards of directors, given their role and the impact they have on all employees in organizations. Strategies to increase gender diversity will be presented and, in conclusion, avenues for reflection on the challenges and the future of this issue will be highlighted.

Explaining slow progress

Board diversity can be profitable for organizations. If “profits” – both symbolic and monetary – can be enhanced by feminizing boards (Erhardt, Werbel, and Shrader, 2003; Francoeur, Labelle, and Sinclair-Desgagné, 2008), then why is the number of women on boards growing at such a moderate pace?

Despite a huge body of literature, advice and opinions, along with campaigns and positive discrimination initiatives around the world, the reality today is that women continue to represent too small a minority of board members. For example, as table 1 shows, France is closest to gender parity on boards, thanks to the early introduction of a law mandating the appointment of women to at least 40 per cent of board seats by the end of 2017. As presented in table 1, the case of European countries such as France, Germany and Sweden shows that regulatory measures can promote greater representation of women on boards.

Reasons for the slow progress despite regulatory initiatives are multiple and complex. The focus in this chapter is on elements for which research has demonstrated practical approaches to accelerate the pace of advancement.

The corporate environment: It’s a man’s world

By contrast with typical masculine environments driven by competition, individualism, hierarchy and technical outcomes, feminine values are commonly viewed as being based on mutual empowerment, empathy and authenticity (Dillard and Reynolds, 2008; Morrissey, 2018). If the goal is greater diversity of thought, manners and approaches, then gender differences should be emphasized and not downplayed. The overall objective should be a change in the corporate environment.

► **Table 1. Women on corporate boards: Quick take**

Country	Women directorships 2019 (%)	Women directorships 2016 (%)	% with 3 or more WOB 2019	% with 1 or 2 WOB 2019	% with 0 WOB 2019	Quota and year introduced
Australia	31.2	26.0	58.2	40.3	1.5	No
Canada	29.1	22.8	63.0	35.9	1.1	Pending
France	44.3	37.6	98.6	1.4	0.0	Yes, 2011
Germany	33.3	19.5	81.0	17.2	1.7	Yes, 2015
India	15.9	12.8	21.3	78.8	0.0	Yes, 2013
Japan	8.4	4.8	3.4	63.2	33.4	No
Netherlands	34.0	18.9	65.2	34.8	0.0	Yes, 2013
Sweden	39.6	35.6	96.6	3.4	0.0	Yes, 2016
Switzerland	24.9	17.5	48.8	51.2	0.0	Pending
United Kingdom	31.7	25.3	82.2	17.8	0.0	No
United States	26.1	20.3	56.2	42.8	1.0	CA only, 2018

Source: Catalyst (2020).

However, as highlighted by Kanter (1993): “people in power (mostly men) mentor, encourage, and advance those who are most like themselves. Not surprisingly then, the handful of women who actually do achieve senior ranks in organizations usually resemble the men in power. They have to identify with and emulate the masculine model in order to progress in the organization.” In Bourdieu’s words (2001, p. 93): “[Women at the top] have to pay for their ‘elect’ positions with a constant effort to satisfy the additional demands that are almost always placed on them and to banish all sexual connotation from their bodily hexis and their dress.”

Considering how discrimination is perpetuated, Dambrin and Lambert (2012, p. 9) observed that whatever they do, women are subject to criticism in most corporate environments: “conforming to the dominant professional male norms and being regarded as unnatural or distancing themselves from these norms and being viewed as incompetent.”

Hence, the organizational environment or culture may be partly responsible for lack of diversity in many corporations (Hillman, Shropshire, and Cannella Jr., 2007; Fitzsimmons, 2012). This may be even more visible in certain fields known as being male-dominated, such as engineering or science and information technology, where conscious or explicit biases may lead to overt discrimination.

Unconscious biases: Changing hardwired mindsets takes time

Invisible biases exist across all sectors. Such implicit associations or attitudes about age, gender, sexuality, race or disability operate beyond our control, alter our perceptions and influence our decision-making and behaviour towards persons or social groups (Mattia, 2018). For example, some may believe that younger people have less to offer in the workplace. Others may unconsciously associate women with childcare and men with executive roles, or people of different ethnicities with negative or positive personality traits. While most individuals consciously know that these are largely unsubstantiated generalizations about large groups of people, our brains have unconsciously formed associations from all experiences and information we have encountered since early childhood.

Unconscious biases are more prevalent than outright sexism or racism but can be just as damaging. They affect decision-making and may lead to poor or unfair outcomes. When stereotyped individuals obtain unfair advantages in the workplace or may on the contrary be disadvantaged, the logical conclusion is that some well-qualified people are overlooked, and that organizations are missing out on their talents. In short, unconscious biases may lead to the appointment of second-best candidates.

Board recruitment: Women like us ... and after us

As highlighted by Holgersson (2013), men tend to recruit men resembling them, particularly when it comes to a board position. This attitude influences the presence of women on boards (Bédard and Brière, 2015), notably because, still today, women and men do not follow similar career paths.

Indeed, McKinsey (2018) observes an uneven playing field in the workplace starting as early as entry-level positions. As their careers progress, men are systematically more likely to be promoted and, as a result, in 2018, only 22 per cent of C-suite executives were women.

It is not surprising then, that boards seeking candidates with C-suite experience similar to that of male board members attribute low female representation on boards to "a lack of qualified female candidates" (Harvard, 2016). One solution to the lack would be to consider more diverse pools of candidates.

However, that alone would not guarantee fast progress because the median tenure of male board members is long. Among S&P1500 companies, for example, it exceeds nine years (ISS, 2017). Such a slow renewal rate could explain why board members also attribute the lack of diversity to the lack of board vacancies (Mattis, 2000).

Legislation and quotas: By virtue or by force

While the case for diversity may be clear, approaches used to accelerate it vary from relying on voluntary action, since diversity appears to improve performance, to using forceful measures such as legislated quotas.

As shown in table 1, several European countries have introduced a binding law, imposing quotas for female board members and sanctions in case of quota non-compliance. France adopted a law in January 2011 imposing gender diversity – of 20 per cent by 2014 and of 40 per cent by 2017 – on the boards of directors of listed companies and companies with more than 500 employees with assets or revenues exceeding 50 million euros. Failure to comply with the quotas invalidates director appointments and results in the non-payment of director fees. Other countries, like Canada, opted for a more moderate approach requiring companies to include diversity policies in their governance codes or requiring them to disclose details on the composition of their board of directors with regard to gender under the principle “comply or explain”.

Table 1 suggests that quotas may be more effective than less constraining approaches. However, whereas gender diversity in the boardroom may be attained more quickly with binding legislation, the depth of such transformation may be questionable. Indeed, Brière et al. (2018) and Tremblay, Gendron, and Malsch (2016) noted that although more rapid and statistically significant increases in the proportion of women on boards may be observed as a result of quota imposition, a broader and more robust analysis of how the presence of women on boards improves decision-making and corporate governance could better justify legislation. Furthermore, integrating women’s role on boards and adopting a more inclusive culture at board level might not only be induced by legislation but also via cultural and organizational transformation.

Towards solutions

Valuing our differences: Not all women are the same

It is now increasingly accepted that male and female business leaders exhibit similar personality traits, often mingled with masculinity, which are quite distinct from the average personality traits of the rest of the population, and especially different from the rest of the female population (Wille et al., 2018).

This implies that recruitment of board members primarily from the narrow pool of female top executives would not lead to measurable diversity of thought on boards. Such diversity of thought would instead be much more likely to occur by recruiting female board members from outside the traditional pool of top female executives.

An understanding of each personality difference between different fractions of the male and female population could help to better develop “gender intelligent strategies” and encourage both men and women to thrive, rather than to force everyone into a system that tends to motivate those with specific personality traits (Morrissey, 2018). This would also contribute to overturning Lehman’s (1990, p. 140) conclusion that adopting masculine traits may be essential not only to succeed but also “to achieve job satisfaction”. It would also be a good starting point to reduce the division of labour and the exclusion of women from certain tasks both in organizations and in society in general, as observed by Bourdieu (2001).

Overturing unconscious biases: Let’s trick our brains

Hunt, Layton, and Prince (2015, p. 1) argue that “moving the needle on diversity is harder than completing a typical transformation due to barriers like unconscious bias”. However, an emerging body of research couched in “nudge theory” suggests that available strategies can regulate such biases (see Kusters and der Heijden (2015) for a review). In short, nudge theory argues that a decision-making process should be designed according to how people actually think and decide, i.e. instinctively and not so rationally, as opposed to how it is traditionally believed that they think and decide, i.e. rationally and logically. Applied to recruiting, the idea is to suppress unconscious biases from the process with much more radical approaches than traditional instruction, enforcement and punishment.

Just as prejudice tends to decrease as people become more exposed to diverse social groups, the same applies to implicit biases because the brain can be trained to form new associations by direct or indirect exposure to positive images. There are many ways to introduce positive images of women in the workplace: informing of peers’ positive practices and actions, creating mingling opportunities for women board candidates, informative training on the benefits of diversity, celebrating the accomplishments of female role models, fostering gender-neutral language in all board documentation and policies, informing of social norms and facilitating the adoption of diversity policies and practices, among others.

Focusing the brain on relevant facts only can also help foster the recruitment of female board members. For instance, when evaluating resumes of potential board candidates, removal of names and other information that may point to

the candidate's gender, race, age and other bias-triggering factors can reduce unconscious bias significantly.

Mentors and champions: Taking a stand

In February 2018, BlackRock, the world's largest money manager with a history of being a passive investor, publicly stated that companies in which it invests should have at least two female board members (Equilar, 2018). Similarly, in 2018, PricewaterhouseCoopers' US Chairman Tim Ryan launched CEO Action for Diversity and Inclusion, a CEO-driven business commitment to advance diversity and inclusion in the workplace (Equilar, 2018). As of 2018, over 13,800 individuals have signed the pledge, including over 500 CEOs of prominent companies.

Mentorship, championing and networking can change negative perceptions and shine a brighter light on an untapped pool of under-represented talent. Both men and women in senior roles have the power to recognize the achievements of women reporting to them and ensure that their fellow board members pay more attention to women's good performance. At director and senior management levels, recruitment and promotions should focus on women's achievements just as much as men's. The success of CEO Action for Diversity and Inclusion suggests that waiting for diversity and inclusion to naturally occur as society evolves may be naive and insufficient.

Hiring and promotion practices: What gets measured gets done

Setting clear diversity objectives is highly recommended regardless of the improvement approach selected. This is the idea behind the successful 30% Club, a campaign group of business chairpersons and CEOs, founded in 2011 in the United Kingdom, taking action to increase gender diversity on board and senior management teams. "Setting targets is a part of everyday business. In the same way, as is true when setting financial or other operational targets, establishing realistic gender diversity targets helps ensure that organisations treat gender balance as a core business issue. What gets measured gets done." (Economic Times, 2019). The statement of intent of the 30% Club Investor Group, UK (2016, p.1), sets a precise target in terms of both female representation and timing: "As members of The 30% Club Investor Group, we are committed to achieving a minimum of 30% women on FTSE350 boards and 30% women at senior management level of FTSE100 companies by 2020."

Clear goals coupled with active engagement with boards of directors can generate measurable improvement in hiring and promotion practices in all companies. While many executives and boards do not intentionally discriminate against women in their recruiting practices, when organizations hire mostly

men, further reflection and demands for action on hiring and promotion practices can help to transform current practices and promote further diversity.

A firm and measurable engagement towards “change driven by those in power” (see 30percentclub.org) should enable a “better gender balance” leading to better corporate results.

Conclusion

The aim of this chapter was to explain why many boardrooms and organizations continue to struggle to increase gender diversity despite the undeniable benefits thereof. Another objective was to present strategies to address and better manage this issue with a view to contributing to ongoing improvement.

While government appears able to force change to some extent, powerful influencers seem able to construct meaning around ongoing events and to develop intervention strategies leading to voluntary positive results (Morrissey, 2018).

Nonetheless, the case for continued discussion on the subject of diversity in organizations remains strong. This chapter focused on gender diversity in the boardroom but women in other top management positions continue to encounter similar challenges and struggle to attain the same degree of representation as men. The intersectionality of the grounds of discrimination in current debate on the representation of women in business also needs further investigation.

A growing body of literature suggests that diversity in all its forms such as gender, race, age, sexual orientation, economic class, academic background and specialized skills, among others, can improve organizational performance and transform organizations for the benefit of society as a whole.¹

Despite measurable and continuous improvement over the last decade, it is too soon to claim victory regarding board and executive diversity. More research, more engagement and more action continue to be the way forward.

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1 Editors’ note: See also Chang (Chapter 1) and Hanula-Bobitt (Chapter 4) in this volume.

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► Improving gender equality through collective bargaining

Verena Schmidt and Manuela Tomei

Introduction: The nexus between collective bargaining and gender equality¹

Sound industrial relations and effective social dialogue contribute to good governance in the workplace, decent work, inclusive economic growth and democracy. They can also be important means for advancing gender equality and fair labour markets, and vice versa.

Collective bargaining is a process of voluntary negotiation between independent unions and employers (or employers' organizations) to determine terms and conditions of employment and relations between the parties. Collective bargaining has enormous potential to contribute to the achievement of the ambitious Sustainable Development Goals (SDGs) set out in the 2030 Agenda for Sustainable Development, notably those on gender equality (SDG 5) and decent work and economic growth (SDG 8).² New initiatives aimed at facilitating the attainment of these goals have been established, including the Equal Pay International Coalition (EPIC). Spearheaded by the ILO, UN Women and the OECD, this coalition brings together governments, employers' and workers' organizations, companies and academia to devise ways to accelerate progress on the achievement of equal pay for work of equal value by 2030 (SDG 8.5).

However, women workers, everywhere around the world, continue to be under-represented in decision-making bodies and processes that shape workplaces and employment outcomes – including in contexts where women make up most of the workforce. This is not only unfair to women, but also counter-productive for businesses, economies and societies at large. The COVID-19 pandemic that started in 2019 seems to be affecting women more severely than men, as women are more likely to bear the brunt of the social and economic consequences of the pandemic. This carries the risk of undoing women's advances in recent decades, widening further gender inequalities in the world of work, thereby jeopardizing the prospect of building back in a more equal, inclusive and resilient way.

1 This chapter draws extensively on ILO and Global Deal (2021).

2 SDG 5: "Achieve gender equality and empower all women and girls"; SDG 8: "Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all".

This chapter seeks to understand the reasons for the persistent inequalities in the labour market and in the representation of women in social dialogue, and to identify actions that employers' organizations, workers' organizations and governments could take to advance gender equality through collective bargaining. The ILO legal framework (International Labour Standards) on gender equality is very important in this context, in particular the fundamental Equal Remuneration Convention, 1951 (No. 100), and the Discrimination (Employment and Occupation) Convention, 1958 (No. 111). These conventions are widely ratified, and both highlight the importance of tripartism by setting out requirements of cooperation with the social partners to address gender-based discrimination and promote gender equality. In particular, Convention No. 111 requires Member States to seek this cooperation in promoting the acceptance and observance of the national equality policy and to consult with representative workers' and employers' organizations on the determination of special measures of protection or assistance, such as affirmative action measures.

The chapter also examines the importance of collective bargaining in the application of the ground-breaking Violence and Harassment Convention (No. 190) and Recommendation (No. 206), 2019, on the same subject matter. It draws upon innovative experience from different regions of the world, including in response to the devastating health, social and economic impact of the COVID-19 pandemic. In particular, it looks at how collective bargaining can deliver gender-equal outcomes in a range of different sectors, whether in the formal or the informal economy, including during the ongoing pandemic, and identifies the circumstances and factors that can help bring about transformative change. The chapter concludes with some proposals for more gender-responsive collective bargaining.

What is collective bargaining and what are the challenges to advancing gender equality by this means?

Freedom of association and the effective recognition of the right to collective bargaining are fundamental principles and rights. Both principles are rooted in the ILO Constitution. The Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), were reaffirmed as fundamental in the 1998 ILO Declaration on Fundamental Principles and Rights at Work. Collective bargaining is a key means through which employers and their organizations and trade unions can establish fair wages and working conditions. It also provides the basis for sound labour relations. Typical issues on the bargaining agenda include wages, working time, training, occupational health and safety, and gender equality. The objective of these negotiations is to arrive at a collective

agreement that regulates the terms and conditions of employment. Collective agreements may also address the rights and responsibilities of the parties, thus ensuring harmonious and productive industries and workplaces. Enhancing the inclusiveness of collective bargaining and collective agreements is a key means for reducing inequality and extending labour protection (Hayter, 2011).

Over time, the scope of collective bargaining has expanded in many countries to encompass topics that are essential to achieving gender parity at work and in the family. These include equal access for women and men to jobs and skills; maternity and parental leave beyond the duration established by law; the promotion of equal pay for work of equal value to ensure fair wages for women and men; and prevention of and protection against gender-based violence and sexual harassment.

However, limitations regarding the impact and sustainability of these efforts, as well as their relatively small scale, are apparent. These limitations are compounded by declining union density rates and shrinking collective bargaining coverage, which are in turn partially caused by weakening support for multi-employer bargaining, unconditional derogations from collective agreements and disorganized decentralization of collective bargaining (Visser, Hayter, and Gammarano, 2015).

At the same time, although some progress is evident, a number of factors continue to limit women's voice and representation both in the workplace and in related decision-making bodies and processes.³ These include unequal power relations between women and men; the time poverty women experience as a result of their bearing a disproportionate burden of unpaid care work,⁴ and domestic violence – perhaps the worst expressions of imbalanced power relations. Examples of uneven power relations in collective bargaining negotiations comprise privileging systematically topics that are more relevant for men; or scheduling meetings in the evening or on weekends when a lot of women have caring responsibilities. And yet, if women had a stronger say in decision-making processes such as collective bargaining, these processes would themselves gain in legitimacy, credibility and effectiveness, to everyone's benefit.⁵

3 For a comprehensive review of the development of gender equality in the world of work and policy responses, see ILO (2019a).

4 Women perform 76.2 per cent of the total amount of unpaid care work (ILO, 2018c).

5 Editors' note: See also Chang (Chapter 1) in this volume on women as CEOs and members of boards of directors.

Box 1: Persistent discrimination in the labour market and the impact of the COVID-19 pandemic

An understanding of structural and other reasons why women are so poorly represented in social dialogue institutions can help identify strategies to overcome this shortfall. Deficits in women's voice and agency in social dialogue reflect women's uneven outcomes in the labour market. Women in the workforce have been disproportionately impacted in the economic fallout of COVID-19. This includes:

Drop in women's labour force participation rates: Women have been affected by employment loss to a greater extent than men globally and across all regions and country income groups, because 40 per cent of employed women work in the sectors hard-hit by the COVID-19 pandemic, e.g. accommodation and food services, wholesale and retail trade.^a The employment loss for women stands at 5.0 per cent in 2020, versus 3.9 per cent for men, globally, although, in absolute numbers, the loss is larger for men (80 million) than for women (64 million). This reflects the already serious gender disparities in labour force participation that pre-existed the outbreak of the pandemic.^b But what is truly worrisome is that, across all regions, women are more likely than men to leave the labour force during the COVID-19 health and economic crisis (ILO, 2021).

Widening gender wage gaps: According to ILO estimates, the pandemic has hit wages of workers at the bottom of the wage distribution more than those at the top. As women are over-represented among the low-paid, this trend is expected to worsen the already large gender pay gap (ILO, 2018a), which globally stands at 20 per cent, although there are significant variations across regions (ILO, 2019a). The stubbornness of the gender pay gap is due to various factors, including women's over-representation in occupations and sectors that often "fall outside the scope of labour legislation, social security regulations and relevant collective agreements" (ILO, 2019a).^c

Declining quality of work: Some female-dominated industries, such as the garment industry, may use the pandemic for further digitalization and relocation of production. This might also lead to a reduction in employment opportunities and a deterioration of working conditions for garment workers, especially in developing countries. For instance, many workers in Asia were offered temporary contracts as a way of reducing risk to suppliers, which led to increased uncertainties for workers (ILO, 2020d).

Rising gender-based violence: Emerging data suggest that gender-based violence has increased during the COVID-19 pandemic. This is partially due to volatile stress levels in pandemic conditions, as well as to more time spent by partners in close domestic proximity because of mandatory telework. The ILO has highlighted the risk of increased domestic violence during the health pandemic, particularly due to confinement measures (ILO, 2020g). Although Convention No. 190 recognizes that both women and men can be affected by gender-based

violence, it also acknowledges that violence and harassment disproportionately affect women and girls.

Increased care load: Before the COVID-19 crisis, 16.4 billion hours were spent in unpaid care work every day around the world and two thirds of these were performed by women (ILO, 2018c). The COVID-19-related temporary closures of early childhood education centres, schools and care facilities have placed additional pressures on working parents, especially mothers, thus adding to their stress and anxiety levels, including on meeting work-related targets.

Women’s poverty on the rise: The ILO estimates that 71 per cent of the world’s population lacks access to comprehensive social protection and that half of all the people do not have any social protection (ILO, 2017b), with women over-represented in both groups. Lack of adequate social protection means poverty and hunger for millions of workers and their families, particularly during a health crisis.

a ILO (2020a; 2020c; 2020f).

b Gender gaps in labour force participation rates have decreased slightly over recent decades, but globally the gap was still estimated at 27 percentage points in 2019 (ILO, 2020e).

c The report notes that “the difference in access to decent work opportunities between men and women is a major obstacle in global efforts to achieve a more equitable and inclusive labour market and is expected to remain so in the coming years, unless additional efforts are made to address the persistent gender gaps” (p. 10) and that “reducing gender gaps in the labour market therefore requires comprehensive measures, tailored specifically to women” (p. 12).

Improving women’s participation in decision-making and collective bargaining

Deficits in women’s voice and agency at work are caused by unequal power relations between women and men, persistent gender stereotypes, the undervaluing of women’s work and women’s shouldering of a disproportionate burden of care work. All these factors combined lead to both direct and indirect discrimination. As an ILO global initiative on women in business and management has found, gender stereotyping linked to family responsibilities and masculine corporate cultures remain among the strongest barriers to women’s participation in business and management (ILO, 2015).

In order to achieve SDG 5.5, ensuring “women’s full and effective participation and equal opportunities for leadership at all levels of decision-making in political, economic and public life”, it is essential that women are adequately represented in collective bargaining teams. Having more women in these

teams would not only make collective bargaining more relevant and responsive to women's working lives, but it could also trigger transformational changes in other social spheres, provided that women and men are encouraged and trained to advance gender equality in collective bargaining, the labour market and the workplace at large.

ILO global research confirms the persistent under-representation of women in national social dialogue⁶ institutions. A study of 195 countries, including 187 ILO Member States, shows that in 2008 female membership of national social dialogue institutions was on average less than 20 per cent; available data for 2018 show average female membership of national social dialogue institutions was still only between 20 and 35 per cent. There are, nevertheless, some inspiring examples of parity or near-parity, namely in France, Norway, Saint Kitts and Nevis, Samoa and Switzerland (Muller, forthcoming).

Despite some progress, the continued under-representation of women in social dialogue reflects a serious democratic deficit, undermining the functioning and the legitimacy of social dialogue institutions (Briskin and Muller, 2011). It also reflects a paradox: while today women in many parts of the world are better educated (ILO, 2018a), and are more likely to join trade unions (Cobble, 2012) and employers' organizations (ILO, 2017a) than in the past, their representation in decision-making positions in social dialogue remains significantly lower than men's (Briskin and Muller, 2011). Moreover, even in places where there is an increase in women trade union members, this does not always result in a proportional increase in women's representation in leadership structures (Britwurm, Douglas, and Ledwith, 2012).

Many employers' and workers' organizations, as well as governments, believe that more needs to be done to promote women's representation in decision-making (ILO, 2019a).

Trade unions have made efforts to ensure that women's representation in decision-making reflects the range of jobs, skill areas and sectors in which women work (ILO, 2019b; Briskin and Muller, 2011). Examples of such efforts include quotas for women's participation in union congresses, reserved seats on executive bodies, and representation of women in decision-making bodies proportional to their membership in the organization at large (ETUC, 2014). Dedicated gender equality departments and gender equality or diversity committees have also been created in many trade union confederations as a basis for advancing equality in both the internal and external functions of trade unions (ILO, 2019b).

An ILO survey points to ways in which women's representation in trade union decision-making structures can lead to improved outcomes in setting union

⁶ Social dialogue includes all types of negotiation, consultation and exchange of information between or among representatives of governments, employers and workers on issues of common interest relating to economic and social policy (ILO, 2018b, p. 3).

wages (ILO, 2019b). The survey found that 34 per cent of respondent unions had women on their executive committees. Regional variations are apparent: for example, in North America 45 per cent of union executive committee members are women, whereas in the Arab States the proportion is just 25 per cent. Worldwide, women make up around 30 per cent of trade unions' wage-negotiation teams, but this percentage is much lower in Asia and the Pacific, Africa and the Arab States. Around half of the trade unions responding to the survey stated that their negotiating teams or commission members are briefed or trained on gender issues in preparation for wage negotiations. Most trade unions had a specific gender or broader equality committee. In addition, 70 per cent of respondent unions stated that they had an internal operational strategy to improve female representation in the organization (e.g. internal guidelines or quotas). The European Trade Union Confederation has been particularly proactive in this regard (see box 2).

Box 2. Gender-balanced representation in trade union decision-making bodies – The experience of the European Trade Union Confederation (ETUC)

In 2011 the ETUC executive committee adopted recommendations for improving the gender balance in trade union structures to better reflect the diversity of the membership and to ensure that the ETUC adequately represents women's interests (ETUC, 2011). At its 2017 mid-term conference, the ETUC introduced equal representation – 50:50 women and men – in the ETUC executive and other committees. As part of its effort to promote gender diversity in trade union membership and decision-making structures, the ETUC carries out an annual equality survey to monitor women's representation in unions. The 2018 survey (ETUC, 2018) noted that while female trade union membership had risen to 46.1 per cent of overall union membership, women accounted for just 37.2 per cent of union leadership teams, 33.5 per cent of unions' key decision-making bodies and only 26.2 per cent of the national confederations' key leaders. Although these figures show that there is still room for improvement, they mark significant progress since the 2011 resolution.

Another ILO survey found that some progress had been made in improving the representation of women in employers' organizations: "Women leaders and managers are gaining ground in EO [employers' organizations] secretariats." (ILO, 2017a, p. ix). The survey, based on responses from over 50 employers' organizations, found that women occupy 34 per cent of top management positions and 38 per cent of deputy executive management positions. Women made up 18 per cent of the chairpersons and 26 per cent of vice-chairpersons on standing committees; these data were "indicative of the increase in women's

participation in lower-level leadership positions” (ILO, 2017a, p. 4). Of the top two positions in employers’ organizations executive committees that manage the day-to-day implementation of the respective organizations’ strategic plans, 18.7 per cent were held by women. Of all the employers’ organizations surveyed, 7.5 per cent had women chairing the board; most had 10 per cent or fewer women on the board of directors; and just 8 per cent had gender-balanced boards (ILO, 2017a). As an ILO global initiative on women in business and management has established, there are plenty of good practices available to promote women in business and management at company level. Measures suggested by employers’ organizations included child-friendly policies, proactive measures addressing male-dominated cultures and encouraging more dialogue around gender diversity to support work–family balance, and greater equality in leadership and management for their staff (ILO, 2015). Gender diversity in employers’ organizations is crucial: “Ultimately, the more gender diverse the members of the EO [employers’ organization], the greater the pool of women able to lead, represent and/or participate in decision-making within employers’ organizations governance structures” (ILO, 2015).

Greater efforts are needed to improve women’s access to senior and leadership positions in the workplace and in workers’ and employers’ organizations in order to integrate gender equality into bargaining more effectively. In some cases, work to this end can be facilitated through legal measures to strengthen women’s representation in social dialogue, as in Algeria and Chile, where legislation was recently enacted stipulating that one third of members of national social dialogue institutions should be women (ILO, 2018b). It is also encouraging that women and migrant workers are increasingly demanding from unions that the latter be more inclusive in order to be effective agents of social change (Britwurm, Douglas, and Ledwith, 2012).

Making collective bargaining more responsive to gender equality and women’s needs and aspirations

Collective bargaining can be a powerful means of advancing gender equality in workplaces and sectors. In some countries, where there are no formal social dialogue structures for resolving work-related problems, dialogue between workers and managers/employers can be encouraged with the aim of implementing practical changes and adjustments in the workplace, often opening doors to the representation of workers by trade unions. In addition, employers’ and workers’ organizations often adopt their own gender-equality policies and strategies with a view to informing and enriching the process of social dialogue.

One important point is that unionized workplaces offer a range of benefits for women at work, for example through non-discriminatory employment and

recruitment practices. The Equal Remuneration Convention, 1951 (No. 100), encourages the cooperation with workers' and employers' organizations as appropriate (see article 4 of the Convention). Trade unions often promote inclusive wage setting, including minimum wages, along with efforts to improve women's representation in wage negotiations (ILO, 2019b). Not only do unions improve workers' pay and conditions of employment, but they can also increase the take-up rates of workers' entitlements. For example, one study revealed that union-represented women in the United States were 17 per cent more likely to take maternity leave than non-unionized women (Timm, 2018). In non-unionized workplaces, a lack of information about rights to maternity leave, along with fear of losing other entitlements, were reasons given for not taking maternity leave.

Bipartite social dialogue between workers and employers includes collective bargaining and workplace cooperation at all levels. When successfully implemented, it can help raise awareness about sensitive or new issues that are emerging in the world of work and establish priorities on gender equality. Working together, the European social partners found common ground in identifying and sharing good practices. In 2014 they launched a web-based *"Toolkit for Gender Equality in Practice"*, setting out 100 innovative initiatives by social partners in different sectors across Europe.⁷

Collective bargaining is an important mechanism for making gender equality a reality across sectors and in workplaces, particularly in conjunction with other regulatory measures such as company agreements (Pillinger et al., 2016). It plays an important role in addressing gender inequality in areas such as narrowing the gender pay gap and facilitating the full participation of women in the labour market (Global Deal, 2018). In addition, women's representation in negotiating teams has helped expand the scope of collective bargaining to include issues of particular importance to women workers, such as maternity protection, work-life balance and the prevention of sexual harassment at work (Pillinger et al., 2016).

Preconditions for successful approaches to gender equality in collective bargaining include a strong commitment to gender equality on the part of both employer and union negotiators. Provisions to extend collective agreements across an entire sector by ministerial decision, after consultation with the most representative employers' and workers' organizations, help to increase the coverage of collective agreements considerably, thereby also encompassing women workers who are over-represented in small-sized enterprises or certain contractual arrangements (Hayter and Visser, 2018). Provisions in the law to incentivize the bargaining teams to tackle gender-equality issues can also have a significant effect (Pillinger et al., 2016).

⁷ Various resources are available on the Gender Equality Toolkit website: <http://erc-online.eu/gendertoolkit/#/>.

Box 3: Finding solutions through collective bargaining during the COVID-19 pandemic

According to the Equal Pay International Coalition (EPIC), COVID-19 has demonstrated that our economies and societies are built upon essential, but often undervalued, underpaid or unpaid female labour (ILO, 2020b). Around the world, about 136 million workers are in the health and social work sectors. Of these, 96 million are women, who constitute the grand majority of the health and social workforce in most countries (ILO, 2020c). The following example shows how collective bargaining helped mitigate the negative impacts of the COVID-19 pandemic on women in the hospital and care sector.

A collective agreement for public-sector workers includes a substantial pay increase and a special premium for workers in hospitals and care facilities in Germany

Hospital and care workers were particularly at risk of acquiring a COVID-19 infection in the course of their work during the early days of the pandemic when personal protective equipment was not readily available. They were also required to work overtime on a regular basis to replace their co-workers who contracted the virus or were quarantined. This took a significant toll on women as they constitute the majority of workers in the hospital and care sector. In October 2020, the public sector and services sector union ver.di and the civil servant federation dbb beamtenbund und tarifunion signed a collective agreement with the association of local government employers' organizations (VKA) and the federal administration in Germany. The collective agreement includes a pay increase for care workers of 8.7 per cent and a pay increase for those in intensive care of up to 10 per cent. Furthermore, a bonus payment for hospital and care workers of €50 per month was agreed for those who were predominantly working to mitigate the COVID-19 crisis.

Collective agreements contribute to the implementation of the obligations stemming from the relevant national legislation and can also broaden such obligations, for example, in the area of extended rights to parental or maternity leave. There are a number of different ways in which collective bargaining has contributed to gender equality; these are described below.

Integration of gender-equality concerns into traditional bargaining topics

This entails, for instance, ensuring that pay bargaining takes into account discriminatory pay systems and the undervaluing of women's work, as well as promoting specific gender pay-equality measures, such as gender pay audits, the use of objective jobs-evaluation methods and action plans designed to detect and address the gender pay gap (ILO, 2019b).

An ILO survey found that trade unions have given a particular focus to improving wages for low-paid workers (41 per cent of unions responding to the survey) and to efforts to unionize or extend coverage of legal minimum wages or collective agreements to groups of workers in more insecure types of employment (37 per cent) (ILO, 2019b). In addition, some trade unions focused on improving pay in female-dominated sectors (21 per cent), using gender-neutral job classifications and evaluations (23 per cent) and improving transparency in pay by developing equal-pay audits and gender-equality plans (23 per cent).

Gender-neutral job-evaluation methods

It is important to avoid and prevent gender bias or discrimination in wage structures and pay setting as well as to retain the value given to women's jobs compared to men's on the basis of job evaluation, taking into account objective criteria such as qualifications, responsibilities and conditions of work. Gender-neutral job-evaluation methods are key to including a gender perspective in preparations for pay negotiation. One example of this is a joint initiative undertaken in Belgium by experts in the three union confederations and the Government's Institute for the Equality of Women and Men that led to gender-neutral job-evaluation and job-classification criteria to inform collective bargaining to close the gender pay gap (Institute for Gender Equality, 2010). This has been instrumental in equipping negotiators with the relevant knowledge, skills and data to engage in collective bargaining on this complex issue.

Box 4 refers to an instance of collective bargaining in the water sector in Peru that resulted in the implementation of a gender-neutral job-evaluation scheme that helped to revalue women's jobs and skills, and increase women's pay.

Box 4. Collective bargaining for gender-neutral job evaluation in the water sector in Peru

The agreement by the Lambayeque water trade union (a member of the national union Federación de Trabajadores del Agua Potable y Alcantarillado (FENTAP)) and the Public Water and Sanitation Board (EPSEL SA) to undertake a gender-neutral job evaluation followed a labour court ruling requiring that the company and union review the existing discriminatory job-classification system. A joint union–employer job-evaluation task force was established, and its members were trained in gender-neutral job-evaluation techniques; an occupational health-risk assessment was also carried out; and a survey was conducted to collect information about the requirements of every job. Based on the information gathered, a new job-classification system was agreed, which gives higher value to certain occupations that are traditionally carried out by women. Over time, the salary scales of these occupations are being gradually adjusted upwards so that they are in keeping with the new classification system. Every year, a budget is assigned to pay for these pay adjustments.^a

a See Public Services International: *Achieving equal pay and decent work in Peru's water sector* (2018), <http://www.world-psi.org/en/achieving-pay-equity-and-decent-work-perus-water-sector>. See also ILO: *Equidad salarial y trabajo decente en la empresa pública del Agua EPSEL – Perú* (2015) (in Spanish), https://www.ilo.org/actrav/media-center/video/WCMS_420205/lang--en/index.htm and *Aplicación de Convenios OIT sobre equidad salarial y trabajo decente en la empresa pública del Agua EPSEL – Perú* (2015) (in Spanish), https://www.ilo.org/actrav/events/WCMS_570700/lang--en/index.htm.

Working time and work–life balance

The Workers with Family Responsibilities Convention, 1981 (No. 156), states that “employers’ and workers’ organisations shall have the right to participate, in a manner appropriate to national conditions and practice, in devising and applying measures designed to give effect to the provisions of this Convention.” The revised European Framework Agreement on Parental Leave signed by the European social partners in 2009 (BusinessEurope et al., 2009) which led to a revised Directive on parental leave (European Council Directive 2010/18), sought to encourage men to take parental leave by providing for at least one of the four months of parental leave to be non-transferable, as an incentive to increasing men’s take-up of parental leave.

In Sweden, parents who are eligible for income-related parental leave benefits receive 195 days of leave paid at 77.6 per cent of earnings (up to an earnings ceiling of SEK465,000); the remaining 45 days are paid at a flat-rate payment. Additional parental-leave pay (*föräldralön*) has been negotiated through collective agreements in the public sector and is commonplace in the private sector. A typical collective agreement in the private sector states that the employer pays

10 per cent extra under the ceiling (i.e. workers receive 90 per cent of earnings) and/or up to 90 per cent of income above the ceiling (Duvander and Löfgren, 2020).

Box 5 presents the application of an innovative approach to addressing the demands of working parents and carers for some flexibility in working time in the metal sector in Germany, while also taking into account employers' production needs.

Box 5. German social partners in the metal sector agree on an innovative collective agreement to increase flexibility for workers and redistribute working hours

In February 2018, the metalworkers' union IG Metall signed a cutting-edge collective agreement with the employers' organization Südwestmetall enabling workers to renegotiate working hours according to their preferences and thus improve their work-life balance (IG Metall and Verband der Metall und Elektroindustrie, 2018). Workers who have dependent family members and shift workers can choose between a pay rise or an additional eight paid days off or a combination of the two. In return, the employers can recruit a higher proportion of employees on contracts with longer working hours (up to 40 hours a week) to balance the reduction in working time. The collective agreement covers around 900,000 workers in the metal and electrical industries in Baden-Württemberg.

Addressing violence and harassment in the world of work

The growing awareness of the pervasiveness and adverse impacts of violence and harassment in the world of work has led to the adoption of the Violence and Harassment Convention, 2019 (No. 190), and its accompanying Recommendation No. 206 by the International Labour Conference in the Organization's Centenary year (see box 6). The new Convention articulates for the first time the right to a world of work free from violence and harassment and provides a clear framework for action not just for employees but for all workers, irrespective of their contractual status, persons in training, including interns and apprentices, workers whose employment has been terminated, volunteers, job seekers and job applicants, and individuals exercising the authority, duties or responsibilities of an employer. It also recognizes that violence and harassment may involve third parties (e.g. clients, customers, service providers and patients) who, depending on the circumstances, may be victims or perpetrators of it. The new instruments acknowledge the various and complementary roles that

governments, employers and workers, as well as their respective organizations, play in preventing and addressing violence and harassment in the world of work.

Box 6. Violence and Harassment Convention (No. 190) and Recommendation (No. 206), 2019

Convention No. 190 provides for the first time a definition of “violence and harassment”, which covers “gender-based violence and harassment, including sexual harassment”.^a It acknowledges that gender-based violence and harassment disproportionately affects women and girls and provides for specific measures to address it, while recognizing the need to tackle its underlying causes and risk factors. The Convention provides an opportunity to shape a future of work for everyone based on dignity and respect and free from violence and harassment. It requires ratifying Member States to adopt, in consultation with representative employers’ and workers’ organizations, an inclusive, integrated and gender-responsive approach that envisages action ranging from prevention and protection, enforcement, and remedies to guidance and training. The Convention further highlights the role of employers’ and workers’ organizations in Article 8, stating that “Each Member [of the ILO] shall take appropriate measures to prevent violence and harassment in the world of work, including by [...] (b) identifying, in consultation with the employers’ and workers’ organizations concerned and through other means, the sector or occupations and work arrangements in which workers and other persons concerned are more exposed to violence and harassment”. Convention No. 190 also requires Member States to recognize the effects of domestic violence on the world of work and to mitigate them, as far as reasonably practicable, and notes in its Preamble that employers’ and workers’ organizations can help to respond and address these effects.

a It is important to note that Convention No. 190 goes beyond gender-based violence and harassment, although the gender aspect of the instrument is what is of interest here.

Collective agreements with references to gender-based violence and harassment had been signed prior to the adoption of Convention No. 190,⁸ and the new Convention is expected to influence the next generation of collective agreements, including on gender-based violence and harassment. For example, in October 2019, the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers’ Associations (IUF) and the dairy transnational Arla Foods concluded an agreement on measures to protect workers

⁸ For a global overview of collective agreements on gender-based violence and harassment see ILO (2017e).

against sexual harassment in the workplace. The agreement defines sexual harassment as a form of gender-based violence and gender discrimination and provides that its prevention and corrective action is to be negotiated between Arla and IUF affiliates in companies that are owned and controlled by Arla Foods internationally.⁹

Extending social dialogue to the informal economy¹⁰

Two billion people – more than 61 per cent of the world’s employed population, comprising 58 per cent of working women and 63 per cent of working men – make their living in the informal economy (ILO, 2018d). Women are also much more likely than men to be in the most vulnerable segments of the informal economy such as domestic work, home-based work, or as contributing family workers. This means they have little or no protection against dismissal, and little access to social protection, including paid sick leave (ILO, 2020b). Workers in the informal economy also lack access to social dialogue mechanisms (ILO, 2019d).

Although social dialogue for workers in the informal economy remains a challenge, tripartite social dialogue is promoted under the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), as a means of representing the interests and participation of workers in the informal economy in decisions concerning them and facilitating their transition to the formal economy.¹¹ The need to redress the low coverage of workers in the informal economy in social dialogue and collective bargaining has prompted trade unions to make greater efforts to recruit, organize and represent workers in the informal economy, often in partnership with organizations of workers in the informal economy, for example, the Self-Employed Women’s Association (SEWA) and the global network Women in Informal Employment: Globalizing and Organizing (WIEGO) (ILO, 2019d; Global Commission for the Future of Work, 2019). This work has helped to strengthen the collective voice of women workers in the informal economy (Schurman and Eaton, 2012). Indeed, as the editors of

9 The agreement does not refer to Convention No. 190, however, the notions in the preamble of the agreement with respect to unacceptable behaviours, sexual harassment disproportionately affecting women and the inclusion of third parties can also be found in Convention No. 190. The IUF ARLA agreement can be found here: <http://www.iuf.org/w/sites/default/files/ArlaIUFAGreementToFightSexualHarassment-e.pdf>.

10 For more detailed information about the role of social dialogue and other instruments to support the transition to the formal economy, see Global Deal for Decent Work and Inclusive Growth (2020).

11 Recommendation No. 204 notes that “the competent authority should make use of tripartite mechanisms with the full participation of the most representative employers’ and workers’ organizations, which should include in their rank, according to national practice, representatives of membership-based organizations of workers and economic units in the informal economy” (Para. 6).

one study note: “Informal workers, their organizations and their campaigns, represent the leading edge of the most significant change in the global labour movement in more than a century” (Eaton, Schurman, and Chen, 2017).

Structures created within trade unions to represent workers in the informal economy include the Union of Informal Workers Associations, established in 2015 by the Ghana Trades Union Congress, and the Ugandan Amalgamated Transport and General Workers Union Informal Sector Women’s Committee, which focuses on informal women transport workers (ILO, 2019c). Similarly, employers’ organizations in several regions have collaborated with informal economic units and small employers in promoting the transition from the informal to the formal economy. Examples include representation of the interests of small and/or informal enterprises as carried out by the Federation of Kenya Employers, the Ghana Employers’ Association and the employers’ organization in the Democratic Republic of the Congo, COPEMECO (ILO, 2017c; 2017d; 2019c).

Box 7 shows how awareness-raising and other actions by a trade union in Uganda helped to reduce abuse of and violence towards informal economy workers.

Box 7. Supporting social dialogue for informal women transport workers in Uganda

The Amalgamated Transport and General Workers Union (ATGWU) in Uganda is helping informal women transport workers and women working around transport hubs to organize to end violence and inequality at work.^a Working through the ATGWU Informal Sector Women’s Committee, negotiations have been carried out to protect women’s safety and improve access to toilet and other facilities, as well as access to social protection. There has been an increase in the union’s membership following the affiliation of associations of informal transport workers and its work in organizing and supporting GALIMA (an all-women association of survivors of HIV and AIDS in transport), as well as traders and home-based workers organized through the Tukulere Wamu Craft Development Association, among others. The establishment of the ATGWU Informal Sector Women’s Committee has also led to local women’s committees being formed, helping women to understand their rights and encouraging them to report violations of rights and abuse. In addition, education workshops and informal education work on the streets in major transport hubs and within the union have helped to change men’s attitudes and given women more confidence to report abuse.

a The project is supported by the International Transport Workers Federation project “Organising Informal Transport Workers 2013–16”, co-financed by FNV Mondiaal. For further information, see www.informalworkersblog.org.

Workers in the informal economy have been brought within the scope of social dialogue and collective bargaining in respect of minimum wages, social security or maternity rights (for example in Burundi, Chile, in the Democratic Republic of the Congo, Malawi, Uganda and Uruguay) (ILO, 2019c).

Going forward: Proposals for more gender-responsive collective bargaining

The future organization of work faces unprecedented challenges, but also offers opportunities arising from the increasing fragmentation of production, the growth of non-standard forms of employment and technological advances (ILO, 2017d). The COVID-19 pandemic and its devastating health, social and economic effects have placed an additional strain on workers, enterprises and economies, but they also offer an unprecedented opportunity to build a more gender-equal, inclusive, sustainable and resilient future of work. There is a need “to manage the unequal distribution of (these) gains and potential disproportional impacts by gender, sector and skill level” (ILO, 2017d). Social dialogue, and collective bargaining more specifically, can contribute to devising gender-responsive solutions to these challenges and opportunities as part of a human-centred recovery.

This chapter has shown that collective bargaining is an important tool for improving gender equality at sectoral and workplace levels. It is already being applied as such, in industrialized and emerging economies alike. The problem, however, is that the scale at which it is occurring is too small and patchy. Certainly, the erosion of trade-union density and collective-bargaining coverage in many parts of the world are partially responsible for this state of affairs. The erosion can partially be explained by transformations in business models and work organization, alongside changes in labour law that are weakening industrial relations systems. Therefore, the pursuit of gender equality as a distinct objective of the collective-bargaining agenda cannot be delinked from larger efforts aimed at revamping and strengthening industrial democracy and its institutions. At the same time, a failure to address the specific concerns of women workers such as pay equity, work-life balance or violence and harassment at work, may jeopardize such efforts.

Achieving gender equality in the labour market requires policy changes and actions in a range of mutually reinforcing areas. As the Global Commission on the Future of Work put it: *“The world of work begins at home. From parental leave to investment in public care services, policies need to foster the sharing of unpaid care work in the home to create genuine equality of opportunity in the workplace. Strengthening women’s voice and leadership, eliminating violence and harassment at work and implementing pay transparency policies are preconditions for gender equality. Specific measures are also needed to address gender equality in*

the technology-enabled jobs of tomorrow” (Global Commission on the Future of Work, 2019, p. 11).

The path to women’s voice and representation means that barriers need to be removed to allow women to participate in social dialogue processes (ILO, 2019a). To this end, governments as well as employers’ and workers’ organizations must play their part.

The ratification and effective implementation of ILO Conventions on freedom of association, collective bargaining and gender equality¹² is an essential step as they provide useful guidance on what to do and how. The promotion, monitoring and regular assessment of national policies on gender equality requiring, among others, data disaggregation by gender, permit the reorientation of policy action as and when needed, besides enhancing government accountability. In emerging economies, with large informal labour markets, measures that ease the transition of workers and economic units from the informal to the formal economy and pay due attention to the specific circumstances and needs of informal women and men workers are also crucial. Governments could encourage the social partners to engage in gender-responsive social dialogue strategies, including by mandating such dialogue or providing the parameters within which negotiations could occur to close the gender pay gap, promote work-life balance, including through parental leave and maternity protection, and end sexual harassment at work.

Employers’ organizations could further implement policies to support and promote women’s higher participation and representation in the workplace, in employers’ organizations and in collective bargaining teams, including in leadership positions. They could provide practical support to employers and companies to encourage them to implement gender-equality strategies in the workplace, within employers’ organizations and in collective bargaining. Employers’ organizations could also put in place awareness raising and training to find effective solutions to tackling unconscious bias and other factors that inhibit women’s appointment to senior and leadership roles.

Workers’ organizations could intensify efforts to ensure that women are effectively represented in senior and leadership positions and through gender-balanced collective-bargaining teams; and engage in organizing and recruitment of workers in non-standard and informal work and in the platform economy. Workers’ organizations could also continue to make full use of

¹² In particular, the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87); the Right to Organise and Collective Bargaining Convention, 1949 (No. 98); the Equal Remuneration Convention, 1951 (No. 100); the Discrimination (Employment and Occupation) Convention, 1958 (No. 111); the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144); the Workers with Family Responsibilities Convention, 1981 (No. 156); the Home Work Convention, 1996 (No. 177); and the Domestic Workers Convention, 2011 (No. 189).

collective agreements to advocate gender-based policies, including policies on work-life balance and on violence and harassment at work.

Since the onset of the COVID-19 pandemic, women have shouldered an unprecedented and disproportionate burden of frontline work in hospitals and care work, as well as an increase in unpaid care work. At the same time, women proportionately have lost more jobs than men during the pandemic and experienced more violence and harassment than before. A deliberate decision to make collective bargaining more inclusive of women and women's needs and circumstances is as important as ever today as the world struggles with the serious devastation brought about by the COVID-19 pandemic. We are already witnessing a backlash of women's hard-won gains over the past decades, and the risk that women will lag further behind in the recovery process is real. Governments and employers' and workers' organizations can reverse the tide through gender-inclusive collective bargaining and improved representation of women at the bargaining table.

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► **Commitment to inclusion as a diversity management strategy**

Katarzyna Hanula-Bobbitt

Introduction

In November 2018, the United Arab Emirates hosted the first World Tolerance Summit “to celebrate diversity of people regardless of varying political views, cultural and religious backgrounds.” The summit aimed to demonstrate that it is possible for individuals, organizations and nations to be open-minded, understanding and accepting of others’ opinions and beliefs in the interests of peaceful co-existence and cooperation in generating new ideas to build a prosperous and sustainable future. The United Arab Emirates is also the first country in the world to appoint ministers for happiness, tolerance and the future in a bid to promote cultural understanding, peace and tolerance in societies.

This is just one example indicating that diversity is currently high on political and business agendas. In the West, it is even difficult to avoid the term “diversity”, often heard during political debates, business presentations and in daily conversation. There is increasing recognition that diverse environments are stronger and more resilient regardless of the context. Thought-associated diversity helps protect against “groupthink” that is frequent in heterogeneous groups and related to structuring viewpoints and decisions based on group conformity. That was well demonstrated by the Challenger shuttle disaster in 1986 and the collapse of Lehman Brothers in 2008, when monocultural organizations failed to recognize the risks they faced.

This chapter will argue that any desired transformation into a more diversified culture requires the engagement of business and a fundamental change in attitudes and behaviours, in particular of business managers towards their workplace. This can be achieved only once private-sector leadership abandons flawed assumptions about diversity and adopts a broader understanding of the concept. The chapter will first review different perspectives on diversity and explain why the commitment of business to diversity is important for societal change before turning to the question of what businesses can learn from non-governmental organizations (NGOs) with regard to diversity management. The role of socially responsible investment in increasing the commitment of business to diversity is also examined. The chapter ends with reflections on the engagement of business during the 2015 European “refugee crisis” as an opportunity for more diversity.

Perspectives on diversity

What is diversity? There are many definitions of and perspectives on diversity. In the most general terms, it can be described as a collective mixture characterized by similarities and differences (Thomas, 1991). Diversity consists of a range of characteristics such as gender, race, disability, religion, belief, sexual orientation and age, as well as personal traits, such as work style, social class, personality and culture (Emmott and Worman, 2008; Goodman, 2013).

Diversity determines how we see the world. An individual's definition of diversity serves as a reference point for further reflection. It encompasses and influences attitudes in professional and private life and, for this reason, affects anyone. What must also be emphasized is that diversity has positive repercussions for economic efficiency and social trust. Diversity has assumed the status of a social good, opposed to the notion that everyone embraces the same cultures and values. This is in part a consequence of the globalization of markets, which brought changes to the characteristics of the workforce.

Diversity focuses on the positive effect of cultural plurality and competencies for private companies and public-service delivery. It also helps to ensure an open and democratic society. In the European Union, promotion of societal diversity and diversity mainstreaming has been placed high on the political agenda (Kraus and Sciortino, 2014). This is due to the replacement of the term "multiculturalism" with that of "diversity" against the backdrop of an increasingly conservative political context. However, it is not enough to prevent discriminatory and xenophobic discourse. Within an increasingly multi-ethnic social context in the West, diversity is downplaying (for better or worse) the relevance of race and ethnicity as distinctive social divides.

This explains why the role of the private sector in promoting diversity is a crucial component in the debate. It is a well-established fact that companies can influence political discourse and outcomes. They have the resources necessary to assure buy-in to policy priorities and should consider "lobbying for social issues" in their effort to be socially responsible. Although lobbying has a bad reputation, it is one of the most effective means by which relevant information can be conveyed to decision-makers. Traditionally, NGOs have not only promoted social issues but have also been expected to bring them to the attention of policymakers. The private sector could do so with far greater impact. It is therefore important to encourage the private sector to see the diversity of the workforce as beneficial not only as a possibility for growth and value creation but also as part of its efforts to encourage broader societal change.

Why the private sector should be vocal about diversity

Recent research by the consultancy McKinsey demonstrates that companies with a more diversified workforce in terms of gender, or race and ethnicity are likely to be more competitive and gain financial returns above their national industry average (McKinsey and Company, 2015). However, most companies still see diversity as part of their corporate social responsibility (CSR) agenda, which until now has not linked business goals to societal needs. The risk is that rather than integrating diversity into a company's DNA and guiding ethos, it becomes more of a public relations tool. Diversity should be seen as a business imperative, essential to a company's growth strategy, as a source of competitive advantage and part of a sustainable development strategy. It seems to be the case that a diverse and inclusive employee base, with multiple approaches and perspectives is more competitive in the globalized economy (McKinsey and Company, 2015).

Despite the clear advantage that a diversified workforce brings to companies, many are still struggling to fully embed diversity into their operations. This could partly be attributed to the fact that there is not a working definition of diversity used by the organization and therefore it is difficult to achieve the desired state of diversification. We understand that a diverse workforce consists of individuals who have different expectations, features and aspirations that emanate from their background, culture, sexual orientation and ethnicity. However, diversity as such is not part of the corporate culture. Diversity management programmes are designed to encourage more diversity at different levels of operations. Companies today spend a lot of resources on developing workforce diversity programmes since the development of a climate that encourages diversity is a central factor in a company's attempts to benefit from its positive effects. An organization that can recruit and retain a diverse workforce is typically seen as more inclusive and valuing diversity, which will allow for competitive advantage (Cox, 1994).

However, as diversity management is an internal process of planning, directing and applying managerial methods in an organization, managers tend to learn the skills needed in a multicultural working environment on the spot. For some, diversity is a significant challenge since managing it requires recognition of certain skills that are vital for creating a thriving and effective workforce. Managers find it difficult to know the factors that contribute to effective diversity management, or the kind of leadership required to effectively and efficiently deal with issues related to workplace diversity. Therefore, in many cases the issue of forced integration and acceptance of diversity in the workplace has actually increased bias among individual employees (Patrick and Kumar, 2012). This is especially visible in the programmes designed to increase representation of women and minorities in an organization as unconscious biases can be deeply rooted in organizational culture (McConnell and Leibold, 2001). Managers

must understand that discrimination and individual bias may hinder diversity management efforts in the organization. They should also recognize their own cultural preferences and prejudices, and try to address them in their management style, which will be necessary but may not be sufficient to enable the organization to attain meaningful diversity goals.

The globalization of business and the changing demographics of labour markets around the world have driven much interest in diversity and diversity management. A recent Deloitte study shows that the millennials are transforming the concept of diversity and inclusion. This generation, expected to make up 75 per cent of the workforce by 2025, takes a far more nuanced view. They see diversity as essential for an inclusive culture that supports engagement, empowerment and authenticity. To them, it is less about ensuring equal opportunities and more about working and collaborating with people from varied backgrounds. They believe that this will ensure a competitive advantage and will make a company smarter, richer, more creative and more successful. Inclusion also gains more traction with millennials not as an abstract idea but as a useful tool enabling competitiveness and growth of the organization (Deloitte, 2018).

There is no one-size-fits-all curriculum for workplace diversity programmes. Each organization and each group will have different needs depending on their specificities. However, diversity management programmes must see diversity as meaning the differences between individuals and support the fact that each individual is unique. Moreover, managers must be ready to change organizational culture when the need to do so arises and learn how to effectively manage a diverse workforce in order to be successful in the future (Farnsworth et al., 2020). As millennials gain leadership positions their perspective is likely to bring about a shift in the understanding of diversity and inclusion models.

When designing diversity management programmes, the main outcome should be to create a working environment that involves everyone based on their individual characteristics rather than one based on dimensional identifiers such as ethnicity, sexual orientation, gender or race. This would result in creating diversity management with increased focus on social responsibility of the company, which, in turn, would stimulate broader systemic and societal change as a result of the acceptance of diversity as a part of business practices that highlight individualism, collaboration and innovation beyond differences that need to be assimilated.

What the private sector can learn from NGOs regarding diversity management

Businesses and NGOs face similar challenges when seeking to enhance the diversity in their workplaces. The responsibility of dealing with diversity issues is similar for a manager of a company and for a manager of an NGO even though

management practices vary from organization to organization. However, since NGOs are constantly confronted with diversity, they are often striving to reach a high level of performance and create an inclusive and diversified organizational culture for their staff. Managers in NGOs are used to dealing with the actions and attitudes of individuals operating in contexts different from their own. They understand that when employees from various backgrounds work together, there is a need to overcome problems that potentially arise based on the different values, cultures and behavioural differences. The advantage of NGOs in diversity management is that they have a deeply social focus and cultural sensitivity to people's needs. They also aim to generate solutions that can be used in conjunction with social justice, human rights and sustainable development issues.

Increased global complexity has made it necessary for managers to acquire new sets of skills to process information that comes from a global network (Cray and Mallory, 1997). NGOs generally try to manage diversity in the name of equity and fairness, while the private sector tends to set apart employees, tasking them with jobs that relate specifically to their background.

Diversity and inclusion are relevant issues for almost all NGOs. There is strong emphasis on the need for NGO staff and boards to be representative and diverse to reflect the experience and values of the stakeholders they serve. For NGOs, diversity goes beyond increasing the number of different identity groups that make up their staff. Instead, they take a more individualistic view and focus on what varied perspectives and approaches members of different groups can bring to the organization. This attracts many people to work in the NGO sector. An NGO knows that its success and sustainability depend directly on its staff. In many cases NGOs are better than private companies in acquiring and retaining talent and therefore it is important to look at what attracts and motivates people to work for an NGO. NGO management sees diversity and inclusion similarly to how millennials see it: as essential for an inclusive culture that supports engagement, empowerment and authenticity.

Most NGOs believe that inclusion is the only scalable way to build diversity within an organization. In the non-profit sector, diversity is considered an advantage rather than obstacle. NGOs know that to realize their ideals of justice and social reform in today's highly mobile, diverse, information-rich world, they need to draw on skills and experience from around the globe. NGOs create and sustain an environment that is enhanced with diverse views that allow for space and opportunities for the staff to bring selves to work. They value the diversity of perspectives, provide for learning opportunities, inclusiveness and foster a culture of open-mindedness.

The private sector could benefit from some of the experience and practices that are regularly applied in the NGO sector. Doing so would allow them to recognize and embrace workforce diversity and create an inclusive organizational culture.

Although the private sector has established a CSR framework, whereby businesses attempt to implement social responsibility and ethics and take a more active role in relation to society and communities, it needs to be established whether the actions are substantive or just symbolic. Substantive initiatives can be thought of as CSR efforts that are genuinely aimed at supporting the common good. Symbolic initiatives are self-serving and performed primarily by the company for reputation improvement and to enhance profits (Donia, Tetrault Sirsly, and Ronen, 2016).

In many cases businesses do not have the capacity or expertise to create programmes that match societal needs. In such cases partnering with NGOs could be a valuable solution. However, to build mutually beneficial and successful NGO-business partnerships, the motivation must be clear on all sides. There should also be common objectives in the form of a deep, shared commitment as well as clear deliverables.

Employees with diverse backgrounds bring unique, important and innovative knowledge and perspectives about how to design processes, reach goals, frame tasks, create effective teams, communicate ideas and lead. If NGOs are to retain good staff, managers of the organizations must ensure that their employees do not become disappointed with the organization.

NGO employees are encouraged to freely express themselves (outside the given hierarchy), are included in the decision-making process and motivated to take actions to catalyse solutions. Many people who choose to work for NGOs do so because they hope to make a positive contribution to the growth and development of society. In this sense the private sector could incorporate the following lessons from NGOs when addressing the issue of diversity: managers in companies must understand that a diverse workforce will embody different perspectives and approaches to work and must truly value a variety of opinions and insights. Corporate leadership should recognize the learning potential and challenges that a diverse staff brings to an organization. The organizational culture must create an expectation of fair treatment, empowerment to take initiative and the possibility to apply skills to enhance job performance. In NGOs, the organizational culture frames actions and behaviours of individual members of the organization by sharing norms, values, beliefs and views.

A variety of opinions, ideas and approaches helps businesses make decisions pertaining to initiating, running and funding of their operations. If that is insufficient to convince the senior leadership about the benefits of incorporating diversity into their business strategy, they may find it becomes a relevant factor in the company financing options.

Investment trends supporting the case for diversity

While investing may not be the first thing that comes to mind when thinking about how to promote diversity and inclusion, there is a growing trend in what is known as “socially responsible investing” that ties the two efforts together.

Socially responsible investing (SRI), also called impact investing, ethical investing, principles-based investing, sustainable investing, etc., is a strategy that incorporates environmental, social and governance (ESG) factors into the investment process. The underlying idea is to invest in companies that have socially responsible business practices such as diversity and inclusion programmes that benefit society. Additionally, there is a multitude of research showing a positive connection between the ESG factors that shape SRI and increasing financial performance. In that context, ESG and diversity are not just catchy phrases, but they are also good for business. On this basis many investors, both private and institutional, may wish to engage and invest in companies that meet the ESG criteria. It could therefore be a motivating factor for many organizations to take a stronger stance in promoting diversity and inclusion. In many cases, applying these changes will require adapting operations and company-wide strategies, which will come at a cost. However, over time, companies that make these adjustments will benefit not only by attracting investors and boosting brand reputation but also through acquisition of the best people, reducing turnover and increasing efficiency in the long term.

This investment trend could be partially due to changing societal norms and political polarization that propels many investors to align their investments with their social convictions. This is especially the case among millennials who overwhelmingly believe that their investment decisions can make an impact. They are twice as likely to invest in companies and funds that target societal or environmental outcomes. Millennials as employees also expect their organizations to act on relevant societal and environmental issues and to promote diversity and inclusion. Investors also see diversity as a key criterion for evaluating a company’s potential. For these reasons, diversity and inclusion metrics (such as tracking recruitment, representation, pay, retention, advancement) are gaining traction and are increasingly included by many organizations in their corporate disclosure. Investors are increasingly looking for companies with good ratings that match their investment objectives.

Diverse and inclusive workplaces are not only ethical but also good for business. To help managers deliver on diversity and inclusion promises and help them tap into investment possibilities created through ESG, they should incorporate measures in the form of metrics. Metrics will help employers and organizations committed to diversity and inclusion to stay on track by encouraging the identification and management of bias blind spots, visible in both mindsets and practices. Diversity and inclusion metrics can be used to identify risks, assign accountability, set goals and measure the impact of diversity initiatives.

Without clear metrics it is difficult to track diversity and inclusion outcomes, especially from the investor's perspective. To facilitate this work, Thomson Reuters created a diversity and inclusion index to allow investors to commit capital to companies that promote diversity. This index, designed in a transparent and objective way, measures the performance of companies against factors that define diverse and inclusive workplaces. The Thomson Reuters D&I Rating provides the information needed to help users identify long-term opportunities and risks in their investments. The data are gathered from publicly available information sources and are manually collected to ensure that the information is standardized, comparable and reliable (Thomson Reuters, 2018).

This index is just one of many that evaluate companies on factors such as workplace diversity and equality. The popularity of SRI, combined with limited data, has also led to the development of a number of tools to aid investors, investment managers and advisers better evaluate companies. These standards on how to measure, analyse and communicate ESG performance need regulatory oversight and should not be left to voluntary/industry standards. The latter could turn ESG initiatives into a mere marketing tool to attract capital. After all, it feels good to generate a return while making the world a better place.

Business engagement for inclusion and diversity: The case of the 2015 European “refugee crisis”

Economic vulnerability, climate change, violence and conflict have displaced nearly 68.5 million people in the world today, of whom 25 million are considered refugees. Almost 85 per cent of this population is hosted by low- or middle-income countries (World Bank, 2018). In 2015, the “year of migrants”, Europe accommodated more than 1 million migrants who arrived by sea and nearly 35,000 who arrived by land (IOM, 2016). Since then, the number of migrants arriving in Europe has decreased. Even so, global headlines remain alarmist about the scale of migration and the “crisis”. This negative language fuels populist rhetoric and undermines attempts to promote diversity and inclusion, by suggesting that people who are different will not integrate and will be a burden on Europe's economy and society. In fact, the long-term economic impact of large-scale migration flows into the EU is not easy to predict. The economies of the main destination countries will most likely benefit in the short term. However, the long-term impact depends on the successful integration of refugees into the labour market. Therefore, one should focus on building more positive, realistic and fact-based narratives around migrants and refugees which do not stigmatize them as “the Other”.¹ We need a new, more sustainable approach to deal with this issue and the private sector is vital in this debate as its

¹ Editors' note: For a discussion regarding the concepts of “migrants” and “refugees” see Kuptsch and Mieres (Chapter 14) in this volume.

involvement is a key component of long-term solutions going beyond any crisis. A coordinated response would benefit businesses, migrants, refugees and host societies alike. The private sector can profit while aiming to achieve social impact; therefore, many companies have been working to integrate migrants and refugees quickly into host-country job markets, an effort that benefits both these populations and businesses.

Beyond the urge to help and limit negative societal and economic dynamics, some companies also see a business opportunity in the “refugee or migration crisis” and the potential for a diverse workforce that it has brought to Europe. They have started to adapt their business models to combine social and business benefit. Many corporates have started developing initiatives to integrate migrants. Examples include: (i) integration through education and improved employability by offering language training and skills development (e.g. IBM, BASF, Microsoft, Total, Vattenfall, Engie, Hitachi, Randstad, Volkswagen) or direct access to the job market through apprenticeships, work placement, mentoring and training (e.g. IBM, BASF, L’Oréal, Randstad, Vattenfall, Total, Sodexo, Coca-Cola, Volkswagen); (ii) social integration through sport, culture and community activities (e.g. BASF, Solvay, Intesa San Paolo, Engie, Hitachi); (iii) awareness-raising of the issue and volunteering with and for refugees to support existing initiatives (e.g. Canon, Danone, L’Oréal, Samsung); (iv) basic-needs responses such as access to financial aid, housing and medical care (BASF, Microsoft, BBVA, Johnson & Johnson, Intesa San Paolo, TITAN, Coca-Cola Hellenic, Enel, L’Oréal, Samsung, Total, Unipol); and (v) innovative tech and business solutions (e.g. IBM, Citi, Iberdrola, Microsoft) (CSR Europe, 2017; FSG, 2016).

Businesses face the double challenge of promoting an environment of cultural understanding for refugees and migrants, while seeking to enhance the performance of their employees. Therefore, the private sector should not only ensure that migrants are treated lawfully as workers but also promote the inclusion and diversity that comes with their new status. Proactive engagement with migrants should be of direct interest to companies due to the improved productivity and greater competitiveness that employing them can bring. In addition, successful migrant integration with the support of businesses has the potential to impact economic growth in a positive manner. Both the private sector and governments cannot afford to keep such a huge group of individuals un-integrated, as this would present social, economic and political risks (McKinsey and Company, 2016).

Incorporating diversity and integrating refugees into European society and structures stands at the centre of political debates across the EU. Full integration, however, seems to pose a challenge at the national and regional levels for governments and authorities. Europe’s millennials who embrace the case for diversity and inclusion tend to approach the issue of integration differently. Millennials have been testing out innovative initiatives and approaches to help

refugees become part of local communities in many parts of Europe. This is especially relevant at a time when many in Europe are succumbing to the anti-refugee policies favoured by populists. Young people are showing their commitment to building an open, inclusive and multicultural Europe (Islam, Rhode, and Huerta, 2019).

The issue of integrating refugees and building the case for diversity has also found a reflection in social impact investing that offers new models for harnessing the power of the non-profit sector with private interventions. Several financial instruments have been developed to help finance critical social programmes. One good example of a financial instrument that aims to support refugees is an initiative by the IKEA Foundation and KOIS Investment to create the first Refugee Livelihood Development Bond. The bond will focus on empowering refugee women and enabling entrepreneurs and apprentices to develop sustainable livelihoods by workforce development and skills training (Global Business Coalition for Education, 2019).

Private-sector involvement is no panacea, nor is it a substitute for public-policy actions or broader multistakeholder initiatives. But it is an important dimension of development endeavours to help addressing, in a more comprehensive and innovative manner, the integration of refugees and migrants and building the case for more diversity.

Conclusion

Diversity – characterized by differences, similarities, related tensions and complexities – can be a strong contributor to innovation, performance and trust in organizations, when it is managed in a way that builds inclusion. Stakeholders must ensure that diversity works in support of the respective organization’s mission, vision and strategy, instead of creating possible tensions and reinforcing pre-existing biases.

The similarities in the approaches to the issue of diversity taken by non-profit and profit-oriented organizations could result in greater engagement and a more strategic common approach to diversity. NGO–business partnerships have immense potential for promoting diversity. For NGOs, the opportunity is to step-change improvement in order to have an impact on a larger scale. For companies, partnerships provide ground-breaking opportunities to enhance their social performance.

The core advice here to business leaders is to not just pay lip service to the promotion of diversity but to establish a practice of connecting diversity management and social responsibility, combining public statements with actionable goals into one coherent strategy. Taking a public stance, especially regarding social issues and controversial topics such as diversity, is key to building authentic leadership and an ethical business reputation.

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► Diversity, migration and the economy

Theo Sparreboom, Sarah Kups, Jesse Mertens and Sandra Berger

One of the key drivers of diversification of societies is migration. It is estimated that 258 million people are living in a country that is not their country of birth and the share of international migrants increased from 2.8 per cent of the global population in 2000 to 3.4 per cent in 2017 (United Nations, 2017). In turn, many factors drive migration, including discrepancies in income and differences in demographic profiles between countries, improving communication channels, decreasing transport costs and the lack of peace and security (Bodvarsson and Van den Berg, 2013). However, in contrast to popular belief, migration is also driven by the development and transformation of economies and societies, which increase both the means and the aspiration of people to migrate (Flahaux and De Haas, 2016; OECD, 2016).

Immigration and diversification have several effects on host economies, and these effects have been the subject of growing research. In particular, much literature is available on the labour market integration and employment of immigrants, and the fiscal and economic growth effects of immigration.¹ Previously focused primarily on high-income countries as host economies, literature is emerging on developing economies as countries of destination.

This chapter discusses the economic contribution of immigration, and in this sense reviews the *economic* case for diversity. Based on a broad analytical framework, the chapter reviews available evidence regarding both developed and developing economies but draws in particular on a recent research project conducted in developing countries as countries of destination (OECD/ILO, 2018a).² Countries included in the project were Argentina, Costa Rica, Côte d'Ivoire, the Dominican Republic, Ghana, Kyrgyzstan, Nepal, Rwanda, South Africa and Thailand. The emphasis on the economic contribution of immigration complements other arguments with regard to diversification considered elsewhere in this book. Special attention will be given to entrepreneurship, as entrepreneurial activities are an important way through which migrants contribute to employment and growth.

1 Editors' note: For a discussion of the terms "migrant" and "immigrant", please see Kuptsch and Mieres (Chapter 14) in this volume.

2 OECD/ILO (2018a) is one of the main outputs of the project "Assessing the Economic Contribution of Labour Migration in Developing Countries as Countries of Destination". This project was co-financed by the European Union's Thematic Programme on Migration and Asylum and implemented jointly by the OECD Development Centre and the ILO from August 2014 to July 2018.

Immigration and per capita income

Theoretically, the impact of immigration on native-born GDP per capita depends on a number of pre-conditions and the direction of this impact is not determined *a priori*. For example, in a simple economy which does not trade with other countries, where the capital stock is fixed, where only one type of worker produces goods and services, and production does not become more or less efficient as production quantities change, an increase in labour supply due to immigration would lower wages and expand total employment and output. This means that overall income (and GDP) would increase due to immigration, but benefits would accrue to capital owners to the detriment of workers (Bodvarsson and Van den Berg, 2013). However, real-world economies are more complex, and the effects are therefore less clear. For example, if immigrants induce firms to raise investment, or if they contribute to the development of new products, production technologies or markets, the impact of immigration in practice can be very different from the simple model. The same is true if immigrants are more likely than native-born individuals to be investors or entrepreneurs, or they bring new knowledge or skills to the country of destination.

Overall, cross-country studies tend to find positive effects of immigration on GDP per capita (Aleksynska and Tritah, 2015; Alesina, Harnoss, and Rapoport, 2016; Boubtane, Dumont, and Rault, 2016; Felbermayr, Hiller, and Sala, 2010; Jaumotte, Koloskova, and Saxena, 2016). At the country level, the OECD/ILO research project estimated that immigrant workers may raise income per capita in South Africa by up to 5 per cent (OECD/ILO, 2018b). Based on cross-country studies, a positive relationship has also been established between cultural heterogeneity or diversity of the population and economic growth (Bove and Elia, 2017). However, negative effects of migration on GDP per capita are suggested by Borgy et al. (2010) and Dolado, Gloria, and Ichino (1994). Some studies also indicate that the type of immigrants or the country of destination are significant factors in explaining the economic growth effects of immigration (Kang and Kim, 2012; Orefice, 2010).

How do immigrants contribute to economic growth? Income per capita rises if the share of employed individuals in the total population or GDP per employed worker (labour productivity) increases due to migration.³ As immigrants tend to be younger than the native-born population, the share of immigrants of working age tends to be relatively high, which is likely to have an upward effect on the share of employed individuals in the total population. For example, the median

³ GDP per capita can be decomposed as follows:

$$\frac{GDP}{POP} = \frac{GDP}{EMP} * \frac{EMP}{POP} = \frac{GDP}{EMP} * \frac{EMP}{WAPOP} * \frac{WAPOP}{POP}$$

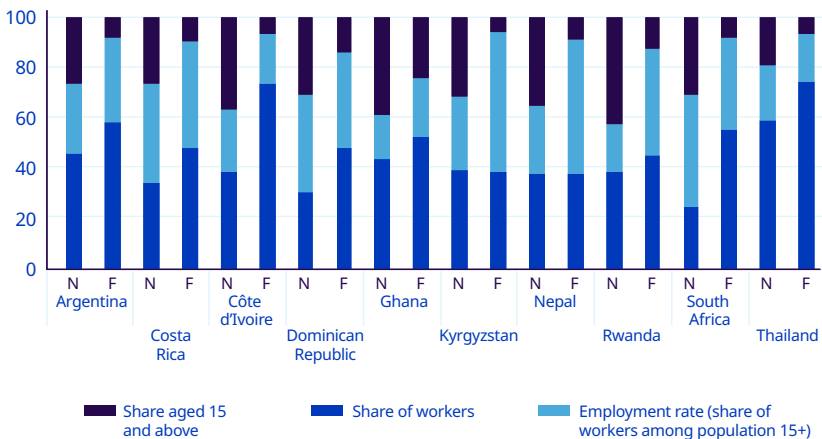
where POP is the population, WAPOP is the population of working age and EMP is employment. GDP per capita can thus be considered as the product of labour productivity (GDP/EMP) and the share of the employed in the population (EMP/POP). The latter is the product of the employment rate (EMP/WAPOP) and the share of the population of working age in the total population.

age of the population of the EU-28 stood at 42.9 years in 2016, while it was 27.9 years for immigrants (Eurostat, 2018). In all ten developing countries covered by the OECD/ILO research project, the share of the population of working age was relatively high among immigrants (see figure 1).

The upward age-related effect of immigration on income per capita may be mitigated if employment rates of immigrants are lower than those of the native-born. This was the case in the European OECD countries in 2016, while the opposite was seen in 2011 (relatively high employment rates of immigrants, see OECD, 2017). On the other hand, in the United States employment rates of immigrants were relatively high in both 2011 and 2016. Furthermore, in six of the ten developing countries covered by the OECD/ILO research project, the employment rate was higher for immigrants. In addition, in only two of the remaining four countries was the share of the employed in the immigrant population lower than among the native-born population (Kyrgyzstan and Nepal); in the other two (Ghana and Rwanda), the relatively high share of the working-age population more than compensated for the relatively low employment rate.

► **Figure 1. The share of employed individuals is usually higher among the foreign-born than the native-born population**

Share of the population aged 15 and above, share of the population employed and the employment rate (for individuals aged 15 and above), by foreign-born and native-born populations



Note: N= native-born population; F= foreign-born population.

Source: OECD/ILO (2018a).

The potentially positive effects of immigration on income per capita working through the share of the employed in the population may also be mitigated if immigrant workers displace native-born workers. Empirical findings in both

developed and developing countries are diverse and contextual, but the consensus view in the literature is that potentially negative displacement effects tend to be minor. If they occur, they are likely to be concentrated in certain segments of the population, such as those with lower educational attainment and earlier immigrant cohorts (Böhme and Kups, 2017; Kerr and Kerr, 2011; OECD/ILO, 2018a).

Overall, the relatively high share of employed persons among immigrants tends to have a positive effect on income per capita in host economies. Potential effects of immigration on labour productivity constitute the second component determining the economic contribution of immigrants. The next section briefly reviews the literature and presents relevant findings from the OECD/ILO research project. The final part of this chapter focuses on entrepreneurship, which is an important channel through which migrants contribute to employment, labour productivity and economic growth.

Labour productivity

While no universal measure of productivity exists, it is often estimated by looking at total output as a function of inputs, also known as the production function approach. If output increases for a given stock of input, this must be the result of higher productivity. The relationship between immigration and productivity can be examined at the aggregate, sector and firm levels. Furthermore, changes in labour productivity can be decomposed into changes in (i) average human capital per worker; (ii) the capital-labour ratio; and (iii) total factor productivity.⁴ In other words, labour productivity can be expected to increase if levels of human capital per worker are rising due to migration and can be expected to decrease if immigration leads to a lower average amount of physical capital per worker (the capital-labour ratio). However, if immigrants contribute to investment or induce firms to invest, this capital dilution would be countered or offset. In addition, other effects may boost economy-wide or firm-level labour productivity, such as contributions by migrants to innovation, technology, development of new products or markets. For example, migrants' knowledge of markets and the economy in their country of origin may facilitate the establishment of businesses and trade and in this way increase output and/or productivity in their country of destination. Such contributions may be reflected in total factor productivity, which essentially captures additions to

4 This can be shown on the basis of a standard Cobb-Douglas production function (Aleksynska and Tritah, 2015; Jaumotte et al., 2016):

$$\frac{GDP_{dt}}{EMP_{dt}} = \alpha \ln HC_{dt} + (1-\alpha) \ln \frac{K_{dt}}{EMP_{dt}} + \ln A_{dt},$$

where HC_{dt} is human capital per worker, $\frac{K_{dt}}{EMP_{dt}}$ is the capital-to-labour ratio, A_{dt} is total factor productivity and α is the labour share.

labour productivity which are not due to changes in the quantities of labour or capital used in production.

As can be expected, empirical findings on the relationship between immigration and productivity are mixed. Some studies find positive labour productivity effects of either the size or the diversity of the immigrant group in the local area or firm (Mitaritonna, Orefice, and Peri, 2017; Peri, 2012; Trax, Brunow and Suedekum, 2015). Other studies find no effects (Ortega and Peri, 2009) or even negative effects (Ortega and Peri, 2011). The effects may differ depending on the duration, sector and skill level of migrant workers (Paserman, 2013; Peri, 2010).

The focus of research is often on skilled migration (whether that is defined by educational attainment, occupation, work experience, or a combination of these). High-skill migration has been linked to knowledge creation and innovation particularly in the United States (Chellaraj et al., 2008; Wadhwa et al., 2008). Various studies have found a positive link between migrant diasporas in the United States and innovation in the country of origin, particularly in China, India, Ireland and Israel (Kapur and McHale, 2005; Saxenian, 2006; Saxenian and Sabel, 2008).

For example, Kapur and McHale (2005) demonstrate that highly skilled Indian migrants based in Silicon Valley have links to the Indian information technology sector. It was found that 77 per cent of these migrants knew of someone who had returned to India to start a company, 52 per cent travelled to India for business at least once a year, while around 30 per cent reported regular information exchange on employment opportunities in India as well as regular exchanges of technological information. Kerr (2008; 2010) highlighted positive impacts of co-ethnic inventor groups on breakthrough technologies in the United States and confirmed that knowledge diffuses through ethnic networks and increases industrial performance in home countries. Similarly, Foley and Kerr (2013) found that increases in the share of a firm's innovation performed by inventors of a particular ethnicity are associated with increases in the share of that firm's affiliate activity in countries related to that ethnicity.

A small number of studies demonstrate a positive relationship between migration and innovation as well as between diversity and innovation in Europe (Nathan, 2013; Ostergaard et al., 2011; Ozgen et al., 2013; Parrotta et al., 2014). Some studies also find negative or negligible contributions from migration to labour productivity (Kangasniemi et al., 2012). At the firm level, both negative and positive associations are found between migration and productivity in New Zealand (Maré and Fabling, 2011).

The OECD/ILO research project undertook quantitative analysis of the productivity effects of the share of migrants at the firm level. Based on enterprise surveys or establishment censuses in Côte d'Ivoire, Nepal and Rwanda, comparisons were made between firms that employed immigrants and those

that did not. It was found that businesses employing immigrant workers were often larger, which is partly explained by their location (more often in urban areas) and economic sector. No significant differences were found with regard to human or physical capital per worker, nor was there a significant effect on labour productivity (OECD/ILO, 2018a).

Productivity and low-skilled migration

Because the economic contribution of highly educated and skilled immigrants seems more obvious, many countries target such immigrants and have adopted more restrictive policies for low-skilled immigrants. Nevertheless, in OECD countries, immigrants are over-represented at both ends of the educational attainment spectrum (OECD/European Union, 2015). This was also true in several countries covered by the OECD/ILO research project, while average years of educational attainment were often slightly higher for the native-born population. It is therefore interesting to consider what we know about the contribution of low-skilled migrants to productivity and GDP.

According to theory, low-skilled migrant workers can positively contribute to productivity increases if complementarities exist between immigrant and native-born workers. Such complementarities would result in a higher level of total factor productivity, as opposed to factor accumulation – a higher level of human capital per worker or a higher capital-labour ratio (Aleksynska and Tritah, 2015; Devadas, 2017). For example, an influx of low-skilled migrant workers by itself will result in a decrease of labour productivity due to a dilution of physical capital. However, as firms adjust, low-skilled migrant workers can help improve the skills of native-born workers through task complementarity (reallocation and specialization) and competition, while also increasing production efficiency and potentially total factor productivity (Peri and Sparber, 2009; Peri, 2010, 2012).

Several authors find positive effects of migration on productivity as a result of directed technological change⁵ as well as economies of scale and agglomeration,⁶ which can be particularly strong when labour shortages are present and when new market opportunities arise (Acemoglu, 1998, 2002; Munoz Moreno et al., 2015; Orefice, 2010; Ozden and Wagner, 2014; Peri, 2010, 2012). Aleksynska and Tritah (2015) found an increase in long-run productivity as a result of increased savings and investment in countries that have experienced a large inflow of low-skilled migration. Jaumotte, Koloskova, and Saxena (2016) demonstrated that both high- and low-skilled migrants contributed to the

⁵ The adoption of technologies and capital that are directed towards the use by a specific migrant skill-group (Acemoglu, 2002).

⁶ Agglomeration economies are defined as the benefits that emerge as a result of firms/people being located near one another (e.g. cities or industrial clusters) (Glaeser, 2010).

positive effect of immigration on labour productivity in advanced economies. In South Africa, the OECD/ILO research project found that, while high-skilled foreign-born workers raised GDP per capita by 2.2 percent, the effect of low-skilled foreign-born workers was 2.8 per cent (OECD/ILO, 2018b).

Heightened labour migration may also incentivize native-born workers to upgrade their skills or to improve their task efficiency (Cattaneo, Fiorio, and Peri, 2015; Foged and Peri, 2016). Several authors mention the positive relationship between low-skilled migration and high-skilled native-born female employment in the context of demand for household and childcare services, which ultimately increases productivity (Cortes and Tessada, 2011; Farré, González, and Ortega, 2011; OECD/ILO, 2018b).

Besides the potentially positive impact of low-skilled migration, less positive effects are clearly possible as well. Jaumotte et al. (2016) highlight the possibility of a reduction in total factor productivity as a result of a change in sectoral specialization towards lower-productivity sectors due to the increased entry of low-skilled migrants. A study undertaken by Smith (2012) finds a negative correlation between low-skilled immigration and youth employment-population ratios. A potential decline in youth employment along with an increased prevalence of non-standard forms of employment, which is often more common among migrants than other workers, may ultimately affect the growth of a nation's labour productivity (Parisi et al., 2018).

The productivity of immigrant workers – both high-skilled and low-skilled – may be reduced or held back if they perform work that is not in accordance with their actual education and skills. Immigrants are vulnerable to skills mismatch for several reasons, including barriers in transferability of qualifications, limitations in language skills and discrimination. With few exceptions, the incidence of over-education at the national level was found to be higher for immigrants than for natives in European countries (Sparreboom and Tarvid, 2017). Even though skills mismatch was not always an issue at the national level in the countries covered by the OECD/ILO research project, it was found that immigrants were likely to be overqualified in medium-skill occupations (OECD/ILO, 2018a).

Qualitative studies

Studies were undertaken by the OECD/ILO research project in Côte d'Ivoire, Ghana, Kyrgyzstan and Nepal with the aim of assessing the pathways by which immigrant workers could contribute to particular sectors and firms and how this contribution might differ from that of native-born workers. These studies were qualitative in nature and did not aim to quantify productivity effects, but instead sought to provide insight into possible mechanisms through which productivity might be affected.

In each country, the studies focused on two economic sectors chosen on the basis of the strong presence of immigrants and the sizeable contribution to GDP (see table 1). The studies were based on: (i) public and private key stakeholder interviews;⁷ (ii) enterprise interviews;⁸ and (iii) focus-group discussions with native- and foreign-born workers.⁹

► **Table 1. Sectors analysed in the four country studies**

Country	Agriculture	Mining	Manu- facturing	Trade	Total number of stake- holder interviews
Côte d'Ivoire	X			X	70
Ghana		X		X	79
Kyrgyzstan			X	X	90
Nepal			X	X	102

Source: ILO/OECD (2018a).

The studies confirmed that both push and pull factors affect migration flows. In the countries under investigation, economic opportunities, competitive pressure in origin countries, political stability, quality of education, perceived hospitality and the availability of basic amenities were major drivers of migration. The studies also emphasized the importance of personal networks as a decisive factor when it comes to choosing a country of destination. Such networks not only provide economic support, they can act as social and psychological safety nets to newly arrived migrants (Munshi, 2014).

The relationship between migration networks and cross-border investment, which has also been emphasized in recent literature (Docquier and Lodigiani, 2010), was particularly evident between Ghana and Côte d'Ivoire. Social networks supported the provision of jobs and credit in these countries, improved the economic activities of traders and aided in the integration of newly arrived migrants into the economy.

In large enterprises, migrant workers are often recruited in response to specific skills gaps. In fact, the studies found evidence to suggest that many migrant

7 These included ministries of interior and labour, other government departments, and national and sectoral organizations of employers and workers.

8 These consisted mainly of large enterprises representing the formal economy.

9 These groups included workers from the informal economy.

workers occupy managerial or specialist positions in the studied sectors. In Ghana and Kyrgyzstan, for example, migrants are employed to fill persistent skill gaps in accounting, engineering or marketing. Findings on low-skilled workers in Ghana, Côte d'Ivoire and Nepal suggest that migrant workers are also often hired as a result of employer perceptions of migrant workers' positive attitude towards work. However, this perception might in fact result from extensive informality and vulnerability among migrant worker communities, forcing these workers to accept jobs at lower wages and less favourable working conditions than their native-born counterparts.

The sector studies also identified factors hampering immigrant employment in large enterprises. For example, many firms face bureaucratic hurdles when trying to hire an immigrant worker. This was the case in Kyrgyzstan, where only short-term work permits are provided, inflicting large administrative burden on employers when permits need to be renewed. In addition, the studies identified corruption to be a problem. Many employers and immigrant workers in Côte d'Ivoire and Nepal reported having to pay bribes in order to obtain a work permit, while this was reported to a lesser extent in Ghana and Kyrgyzstan.

The perceptions of immigrant workers within small enterprises seem more mixed. While some interviewees highlighted the contributions of immigrant workers with regard to skills and job creation, others expressed reservations in terms of more intense competitive pressures in labour and product markets as well as increased environmental problems. Such negative perceptions about job competition are linked to the significant weight of the informal economy as well as to the perception that immigrant workers dominate certain sub-sectors and niches. This niche-formation has been associated with both social stigmatization and perception of job status in the country of origin and in the country of destination. For example, immigrant workers in Nepal often find work in low-skilled jobs which are considered undesirable by native-born workers, in order to avoid the same social stigma of the job in their community back home.

Furthermore, perceptions relating to the displacement of native-born workers in the trade sectors emerged from the sector studies. This was mainly due to possible trade connections between immigrant workers and manufacturers in the country of origin, allowing for easier and perhaps cheaper imports when compared to the activities of native-born workers. However, this does not preclude positive developments in the sector as immigrant workers can transfer their knowledge to native-born individuals (such as in Côte d'Ivoire). More generally, many immigrant workers are employed in the informal sector under poor or even exploitative working conditions. This is not only harmful to the immigrant worker, but it also negatively impacts the country of destination as a result of foregone fiscal contributions from workers.

The sector studies also found evidence of other forms of reciprocity between immigrant and native-born workers. In many instances, native-born workers

benefit from the skills and capital provided by immigrant workers, while the latter benefit by receiving a stake in the local business (e.g. Ghana). Furthermore, some immigrant workers introduced new technologies or brought strong marketing skills (e.g. Ghana, Kyrgyzstan). This not only enhances the skills of native-born workers but may also contribute to the host country's economy. Nevertheless, language barriers (language being a key factor in integration), can prevent such mutual learning (e.g. Ghana, Kyrgyzstan).

Immigration and entrepreneurship

The myth of the immigrant who starts out with little more than a dream and ends up the owner of a successful business is pervasive in traditional immigrant societies such as in the United States. What is the reality of this notion today? Even if immigrants are more likely to be successful entrepreneurs, how much do native-born people benefit from their activities in terms of finding better jobs, being offered innovative products or services or being able to launch their own businesses? The following discusses theoretical and empirical evidence on the effects of immigration on entrepreneurship in the country of destination.

There is no established definition of "entrepreneurship". A narrow definition refers only to those who start an innovative business themselves. In another, anyone who assumes risks in order to address an opportunity is labelled an entrepreneur, even if their activity is unrelated to business or if they are employees (sometimes also called intrapreneurs). Most of the literature on the effects of immigration on entrepreneurship uses the easily operationalized definition of an entrepreneur as a self-employed person, be it as an own-account worker or as a business owner. Unless otherwise noted, this is the definition used here.

Immigrants may have higher entrepreneurship rates for several reasons. The first is that immigrants demonstrate characteristics that make them more likely to become entrepreneurs. First, moving to a new country is in itself a risk. Migrants leave the environment in which they grew up and know well in the hope that they will improve their life elsewhere. Similarly, starting a new company also requires taking risks. If immigrants are inherently more tolerant of taking risks, this may also make them more likely to become entrepreneurs. Nevertheless, even if immigrants are more risk-tolerant or even risk-loving (Jaeger et al., 2010), this does not in itself imply higher entrepreneurship rates in the country of destination. Immigrants may find it more difficult to identify suitable business opportunities. They may also face higher barriers to starting their business, such as in obtaining a loan or understanding and complying with legal requirements for starting and running a business. Other reasons for the higher entrepreneurship propensity of immigrants can include that they are more likely to have a personal or family background of entrepreneurship. Researchers come to different conclusions about whether this actually has any

influence (Andersson and Hammarstedt, 2010; Hout and Rosen, 2000). The second reason is that immigrants have a tough time finding employment, especially at appropriate wages, and therefore opt for self-employment (Blume et al., 2009; Clark and Drinkwater, 2000; Lofstrom, 2002). A third is that immigrants may have specific business opportunities in areas within immigrant enclaves. Here again, the evidence is mixed (Andersson and Hammarstedt, 2012; Blume et al., 2009; Clark and Drinkwater, 2000; Lofstrom, 2002; Yuengert, 1995).

There is no universal pattern for the relative prevalence of entrepreneurship of foreign-born compared to native-born individuals. Across OECD countries, the self-employment rate of immigrants is slightly higher on average, but in some countries the opposite is true (OECD, 2011). In the ten-country sample of the OECD/ILO research project, the share of employers among employed immigrants is higher in three countries and lower in two. In the remaining five, there was no statistically significant difference (OECD/ILO, 2018a). Finally, in a sample of 69 countries, the new business start-up rate was higher among the foreign-born than native-born in most regions of the world except in Eastern Europe (where it was about equal) and Central and South America (where it was lower) (Vorderwülbecke, 2012).

Immigration could theoretically make it more or less likely for native-born individuals to start a business. On the positive side, immigration may support native entrepreneurship through various channels: for example, immigrants may bring skills that do not fully translate in their new environment and that are hence not reflected in higher wages, but that nonetheless make them more able to pick up new skills. Hence, innovative new enterprises may be able to make a bargain by hiring less expensive but highly trainable workers (Duleep, Jaeger, and Regets, 2012). Unfortunately, employers may not only make use of legal means of hiring well-qualified workers at reduced wages but may also systematically hire irregular immigrants and maintain a cost advantage over their competitors (Brown, Hotchkiss, and Quispe-Agnoli, 2009) – a practice that is unlikely to increase overall innovative entrepreneurship. Greater competition may also encourage domestic firms to become more innovative (Nathan, 2014). On the negative side, immigrant entrepreneurs may displace native-born entrepreneurs.

The empirical evidence on the effects of immigration on native-born entrepreneurship is limited. There is evidence that in the United States during the 1980s and 1990s, self-employed immigrants displaced some native-born self-employed but did not reduce the earnings of the remaining native-born self-employed (Fairlie and Meyer, 2003). Similarly, in Argentina, a higher concentration of all immigrants (not just self-employed) in the local area appears to lower the business ownership rate. In contrast, in Costa Rica and South Africa, there appears to be no effect while in the Dominican Republic, a higher concentration of immigrants appears to increase the native-born business ownership rate (OECD/ILO, 2018a).

Aside from the prevalence of entrepreneurship, it would be interesting to know whether there are any effects of immigration on the quality of entrepreneurial activities in the destination country. A few empirical studies exist that explore the potential effects of immigration on the following:

Size: In two out of four low- and middle-income countries (Rwanda and Dominican Republic) that were studied, immigrant employers less frequently own microenterprises compared to small, medium or large enterprises than native-born employers (OECD/ILO, 2018a). In the United States, among a sample of college graduates, immigrants are more likely to start a company with at least ten employees (Hunt, 2011).

Growth: In the United States, immigrant-founded businesses tend to grow faster than businesses founded by native-born individuals; but the relationship no longer exists when taking into account whether the business received venture-capital investments (Kerr and Kerr, 2016).

Profitability: In the United States, immigrant-owned businesses on average have a lower income than native-born owned businesses (Fairlie and Lofstrom, 2015).

Innovation: Nearly one quarter of the engineering and technology companies founded in the US between 2006 and 2012 had an immigrant (co-)founder and in Silicon Valley, this proportion reaches as much as 44 per cent (Wadhwa, Saxenian, and Siciliano, 2016).

Conclusion

Research on the economic contribution of immigrants has expanded in line with the growing importance of migration flows, and often supports the economic case for diversity. The economic contribution of migrants is likely to raise income per capita, notably owing to age-related effects. Even though our knowledge has increased, many gaps remain, while research results appear to be sensitive to methodologies and contexts (OECD/ILO, 2018a). Research in developing countries as countries of destination remains relatively limited. Work on labour productivity is a case in point, as the bulk of the research is concentrated in a handful of countries. In several developing countries the sector studies undertaken in the context of the OECD/ILO project were the first attempt to identify mechanisms by which immigrant workers could contribute to host economies.

While there are plenty of perceptions that low-skilled workers do not provide the same kind of stimuli to firm-level productivity as high-skilled workers, such perceptions are not reflected in the limited empirical evidence. In fact, efficiency gains are quite possible, as observed in various studies, through task specialization, competition and the adoption of new techniques. On the other hand, the incidence of informality and irregularity is often higher among low-skilled

workers, particularly those migrating between low- or middle- income countries propelled by poverty to seek work abroad. This often goes hand in hand with low-skilled migrant workers' increased vulnerability, weak bargaining power and over-representation in non-standard forms of employment.

Some of the purported gains in productivity as a result of increased diversity due to immigration could come at the expense of decent working opportunities and fair and equitable conditions of work for migrant workers. Further empirical research is needed to better understand the channels through which low-skilled immigrants affect productivity, and how these vary for different countries across different time spans. Indeed, a key methodological improvement required for individual country analysis is clarity in measuring and distinguishing short- and long-term effects (Carletto, Larrison, and Ozden 2014). More firm-level analysis would be beneficial to better understand employer behaviour and the mechanisms of immigrant impact within organizations (Nathan, 2014).

As the need for more and better data and analysis of migration stands out clearly, the *Guidelines concerning Statistics on International Labour Migration*, which were adopted by the 20th International Conference of Labour Statisticians should be welcomed (ILO, 2018). It is hoped that they will encourage countries to systematically produce statistics on labour migration. In turn, such statistics allow for better analysis and ultimately better policies to maximize the benefits of migration.

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Part



2

**The illusion of equality –
Inclusive structures needed**

► **When home affects pay: An analysis of the gender pay gap among crowdworkers**

Abigail Adams and Janine Berg¹

Introduction

Women have made major advances in the labour markets of OECD countries throughout the past century. As a result, there has been a clear convergence in the education levels and employment prospects of men and women. Yet, while the gender gap in education has closed or even reversed in many rich countries, there remain stubbornly persistent gender differences in pay and labour market participation, and in the types of jobs that men and women perform.

A number of channels have been identified to explain the persistence of these gender disparities, from direct employer discrimination to gender differences in preferences and competitiveness, to having and raising children lowering women's productivity in the workplace. However, analysing the relative importance of these different factors is not straightforward. The study of discrimination is, for example, often complicated by the presence of unmeasured confounding factors. While a recent trend towards the use of tightly controlled experimental studies removes some of the sources of potential bias, whether one can extrapolate experimental findings to understand labour market dynamics in the real world is an open question.

To investigate the presence of a gender wage gap we use a unique data set from a labour market in which employers do not know the sex of their workforce. As such, we are able to remove direct employer discrimination as one of the main potential sources of wage discrimination. Further, our data are restricted to one occupational group – crowdworkers, thus removing earnings differentials arising from differences in occupation. The data set therefore allows us to concentrate on the influence of individual characteristics and family responsibilities on women's labour market outcomes.

Crowdwork emerged in the second half of the 2000s with the growth of the internet and the need to have human input into a range of tasks serving the smooth functioning of web-based industries. Workers may work from anywhere

¹ We are grateful to Rochelle LaPlante, an experienced crowdworker on the MTurk platform, for helpful insights on crowdworking. We would also like to thank the respondents to the ILO Survey on Crowdworkers for sharing information about their work and their views.

in the world, depending on the decisions of the platform, as long as they have a reliable internet connection. Crowdfwork ranges from sophisticated computer programming, data analysis and graphics work to relatively straightforward “micro-tasks” of a clerical nature. Although micro-task crowdwork is performed on a computer and involves a higher level of skill such as computer literacy, it shares many of the characteristics of traditional homework still prevalent around the world. It can thus be thought of as contemporary homework.

We analyse earnings of men and women living in the United States on the Amazon Mechanical Turk (MTurk) crowdworking platform to investigate whether there is a gender pay gap among these workers. Our analysis is based on a survey of working conditions conducted by the International Labour Office on the platform in November and December 2015 that includes both quantitative and qualitative information about the workers and their experience of performing crowdwork. While we find that most workers’ earnings are low on the platform – with 80 per cent earning less than the US federal minimum wage – we also find that on average women earn one dollar less per hour than men. Women’s average hourly earnings were US\$4.90 compared to US\$5.90 for men. Further, the size of the gender pay gap varies across the wage distribution. The gender pay gap is highest among the lowest-earning crowdworkers and lowest for higher-earning individuals; at the 10th percentile of the wage distribution, we find a gender pay gap of 24 per cent, while at the 90th percentile, the gender pay gap falls to 11 per cent.

Using regression analysis and Oaxaca-Blinder wage decompositions to analyse the factors that might explain the gender wage gap among crowdworkers we find that differences in the family responsibilities of men and women are important in explaining the female wage penalty. On average, women have more children and more onerous care-giving duties than men, characteristics that are associated with lower earnings. Combining the quantitative results with qualitative evidence from the survey, we conclude that juggling caring duties with platform-based work limits the tasks that women can do online, reducing their earning potential. Faced with interruptions from young children or adult family members, women appear less able to select the longer, more complex tasks posted on the platform, some of which also require a quiet working environment. Consequently, low-earning women are more likely to be constrained to accept menial “penny HITS”² such as data entry, cataloguing or verification, because these tasks can be performed quickly as opposed to other tasks that require greater concentration and dedicated time to complete (such as audio transcription, for instance). This can cause their remuneration to suffer, accounting for some portion of the gender wage gap.

² HITS, or human intelligence tasks, is the nomenclature by which Amazon refers to work by people on the MTurk platform.

The gender pay gap and home-based work

The gender pay gap, the difference in earnings between men and women, remains an important feature of labour markets around the world, despite improvement in women's educational attainment and labour-market participation. According to the ILO (2015), the difference in earnings varies from around 5 per cent in Sweden to over 20 per cent in Germany and Mexico to above 30 per cent in the United States and the Russian Federation.

Many reasons are given for the gender wage gap. Variables that can most easily explain the gap include those relating to the individual worker's characteristics, such as the education and skills that they bring to the marketplace; the occupation and economic sector they work in; the location of the work, whether in a rural or urban setting, and the number of hours worked. The unexplained portion of the gap – or wage penalty – is often attributed to discriminatory practices, which in turn can influence the worker's characteristics, including their level of education or labour market experience, or the occupations or economic sector they enter. Many researchers attribute the difference in earnings to an undervaluation of women's work (especially in those professions that are female-dominated), but other mechanisms including labour-market institutions, or the lack thereof, can also play a role (for example, if minimum wages are set by occupation and female-dominated occupations have a lower minimum wage than comparable male-dominated occupations, or if there is lower union representation and collective bargaining coverage in women's occupations). In addition, women may be discriminated against by their employers, particularly if they are viewed as secondary earners (ILO, 2015).

Beyond discrimination by employers, it is recognized that the lower earnings of women *vis-à-vis* men are primarily driven by how they participate in paid work, which is in turn an outcome of the sexual division of labour in the household. Owing to their greater care responsibilities, women enter occupations that are more likely to allow them to conform to their traditional role as caregivers (Judge and Livingston, 2008). Women often seek jobs in predominantly female occupations, as these jobs are more likely to provide them with greater flexibility to attend to domestic demands, or in occupations that provide flexible or short hours. In countries as diverse as Argentina, Germany, Japan and the Netherlands, there is a more than 25-percentage point difference between women's participation as part-time employees and that of men (ILO, 2016). Part-time employment is typically associated with wage penalties, thus negatively affecting women's earnings (ILO, 2016).

Women also tend to have intermittent employment in the labour market, exiting with the birth of children and re-entering when children are older and more independent. Anxo et al. (2011), in a study of gender differences in time use over the life course in France, Italy, Sweden and the United States, find that the arrival of children has a negative impact on female employment rates in all countries,

but that this decrease was particularly pronounced in the United States (where the employment rate falls from 82 to 58 per cent) and in Italy (from 74 to 54 per cent). In contrast, the reduction in employment is much lower in France and Sweden. The authors attribute these differences to the institutional and societal context of the countries, particularly parental-leave systems, the availability and cost of childcare and elder care, as well as tax policies.

In addition to the lack of policies supporting working parents in the United States, Blau and Kahn (2003) cite the country's decentralized wage-setting institutions as a key factor negatively affecting workers with lower levels of labour-market skills (both measured and unmeasured) or who are in less-favoured sectors of the labour market, many of whom are women. They argue that this explains in part the high ranking of the United States in international gender wage gap comparisons, despite the high levels of education attained by women.

How does working from home affect the gender pay gap?

Working from home can entail either a home-based business run by a self-employed worker, or home-based work, which can be part of a teleworking arrangement or which takes the form of "industrial" homework, such as sewing or assembly work performed in the home.³ In the United States, according to data from the US Bureau for Labor Statistics, 7.1 per cent of women are self-employed compared with 11.5 per cent of men. The earnings of self-employed women are consistently lower, ranging from 76 to 86 per cent of male hourly earnings (Roche, 2014). While self-employed women may not suffer from employer discrimination, discrimination can nevertheless occur on the part of business networks or customers (Simon and McDonald Way, 2014). In addition, there are notable occupational differences among self-employed workers, with men more likely to work as construction contractors while women are most likely to work as childcare providers (Hundley, 2000; Budig, 2006; Roche, 2014). The market valuation of these occupations differs due to more demanding professional requirements for contractors compared to those for childcare providers, but also likely reflecting the undervaluation of care work, thereby contributing to gender wage differences.

Yet another source of the difference stems from the effect of family responsibilities on self-employed earnings. Many women turn to self-employment to combine work with family or other domestic commitments. According to the US Bureau of Labor Statistics, in 2012, 46 per cent of self-employed women in the United States worked less than 35 hours per week compared with just

³ Industrial homework refers to production activities undertaken in the home as part of, or replacing, factory production, often involving assembly, sewing, embroidery and other tasks, as well as artisanal production, such as in the making of handicrafts.

18 per cent of men. Among women, 84 per cent report that they work fewer hours due to non-economic reasons, such as taking care of children and other family members, attending school or training, or to contribute a secondary income to their households. This trend is most pronounced among women in non-professional or managerial occupations, who account for the bulk of self-employed women (Budig, 2006).

Hundley (2000) explores the possibility that the earnings differences between male and female self-employed are due to their different motivations for entering self-employment. The author finds that marriage and growing family size increase the probability that women will be self-employed, but these life events have no effect on the probability of male self-employment. Moreover, they are negatively correlated with earnings among self-employed women, but positively correlated with the earnings of self-employed men. The author also finds that hours of housework have a pronounced negative effect on the earnings of self-employed women.

The effect of housework on decreasing women's, but not men's, pay is well established in the labour-market studies of the gender pay gap among employees (Hersch, 1991). As a comparison, however, Hundley (2000) finds that the "housework penalty" is greater for self-employed women, most of whom are working from home, relative to employed women working in an organization. Hersch (1985) analyses the earnings of married, home-based piece-rate workers producing men's suits in upstate New York in the early 1980s. She finds that the amount of housework is insignificantly related to husbands' earnings but negatively related to the earnings of wives.

Besides the effect of housework on earnings, the pay of home-based workers can also suffer if these workers are not privy to pay or benefits normally given to on-site employees. For example, homeworking insurance claims clerks in the state of Wisconsin in the United States, in the early 1980s, received lower pay and were exempted from benefits received by on-site (mainly female) employees with respect to annual and sick leave, and medical and pension benefits (Costello, 1989). Indeed, the motivation of the company to shift work to home-based employees was to save benefits costs and weaken the company's union (Costello, 1989).

Homework has a long (and ongoing) history in the United States and elsewhere. In the first decades of the 1900s, there was much debate about whether industrial homework should be allowed, with many social reformers arguing that it curtailed factor employment and undercut wage and health standards. Pay was typically less than two thirds of comparable factory jobs, and the women worked long hours to meet production targets often recruiting other family members, including children, to help with the work (Boris, 1985). After much dispute, the Fair Labor Standards Act (FLSA) was passed in 1938, effectively banning industrial homework as it undermined the minimum-wage provisions

of the FLSA (Boris, 1985). Debates about industrial homework resurged in the 1980s, with the case of Vermont knitters, who contested the federal prohibition on homework in apparel production (Finkin, 2016; Boris, 1989), arguing for the right to be able to work from home.

Crowdwork is a form of contemporary homework. On the MTurk platform, the jobs are “micro-tasks” (known as HITs – “human intelligence tasks”), and in principle can be done quickly, with minimal instruction or supervision. They include simple tasks such as searching for information on the web; verifying and validating information, such as confirming the ownership of a Twitter account; categorizing or classifying items for online product catalogues; to the more involved and skilled tasks of content creation, including writing a description of a product, summarizing a document or transcribing an audio recording. In addition, many surveys are posted on platforms, including for academic studies (Gadiraju, Kawase, and Dietz, 2014). Audio transcription is the most frequent task on the MTurk platform.⁴

While many of the tasks on crowdwork platforms did not exist prior to the web and the advent of social media, some do date from pre-platform times, including audio transcription and data entry, and continue to be performed by clerical workers in physical offices. Technological advancement has facilitated the dispersion of these tasks to homeworkers through internet platforms.

Like other forms of homework, crowdwork is beset by low pay and few, if any, labour protections. Although many countries have enacted laws regulating homework and an international labour standard, the ILO Homework Convention, 1996 (No. 177), promotes equality of treatment between home workers and other wage earners, in practice labour laws are rarely respected. Moreover, many workers, including crowdworkers, have been classified as independent contractors, meaning that in most jurisdictions, labour regulations on working time, minimum wages, rest periods, leave entitlements and other benefits do not apply to them. As this is a new industry, there has been relatively little contestation of this classification in the courts.⁵

There are two main tensions in the debate on homework, both past and present. On the one hand, homework enables some women to engage in paid work who may otherwise not be able to work or who desire the flexibility that working from home affords in terms of reconciling paid work with domestic responsibilities. On the other hand, this flexibility comes at a cost in terms of the stress generated by having to reconcile paid and unpaid work (see for example,

4 Based on a classification of 2.5 million batches constituting 130 million HITs taken from <http://mturk-tracker.com>, analysed over 2009 and 2013 (Difallah et al., 2015).

5 One noteworthy exception is *Otey v. Crowdflower* where the plaintiff argued that the crowdworking platform, Crowdflower, was in breach of the FLSA. This case was settled out of court. Unlike micro-task platforms, there has been considerable litigation against transport network companies with respect to employment classification. See Cherry (2016) for a review.

Sirianni and Negrey, 2000), but also because the pay and benefits of home-based work are often lower (Boris and Daniels, 1989). The lower earnings stem from: (1) the ease that employers have in paying workers less for this work, as the workers value the pecuniary benefit of being able to work from home; (2) the lack of regulation with respect to wages and benefits, either because they are typically not covered by collective bargaining (and are difficult to unionize due to their geographical dispersion), or because many of these workers are classified as independent contractors and as such are not entitled to the protections of labour law; or (3) because domestic responsibilities can interfere with the availability needed for paid work, thereby compromising productivity and earnings, particularly for those who are being paid by the task or piece.

There is thus a double disadvantage in earnings from crowdworking due to a lack of regulation (which affects both women and men) as well as the interference of domestic obligations on the work being performed (which mainly affects women), and the subsequent influence of such interference on their choice of tasks, their productivity and their earnings. Addressing how this plays out is a central concern of this study.

Data and findings

We now turn to the ILO Survey of Crowdworkers, undertaken in November and December 2015 on the MTurk platform, to analyse gender differences in pay and working patterns for those working on the site.

The survey included a detailed set of questions on the respondents' socio-demographic characteristics, household composition and responsibilities, as well as questions on their work patterns both on crowdwork platforms and in the offline economy. The survey was divided into two parts. Workers were paid US\$1 to complete Survey 1, which captured basic demographics along with some additional measures of crowdwork experience. Workers who adequately completed Survey 1 were then invited to participate in Survey 2, remunerated at US\$3. Survey 2 included more detailed questions about work experience and work history. Both surveys also gave respondents the opportunity to raise any other points that they wanted to share relating to their crowdwork experience.

We restrict our sample to respondents living in the US who completed both Survey 1 and Survey 2, leaving us with 564 eligible responses. Although there is no universal database of crowdworkers that allows for drawing a random sample, the demographics of Amazon MTurk workers have been tracked for several years and are available on the MTurk tracker website.⁶ The characteristics of our

⁶ Available at <http://www.mturk-tracker.com/#/general>. The website was set up and is maintained by NYU computer science professor Panos Ipeirotis. See also Ipeirotis (2010).

sample do not significantly deviate from the demographic breakdown recorded by MTurk Tracker.⁷

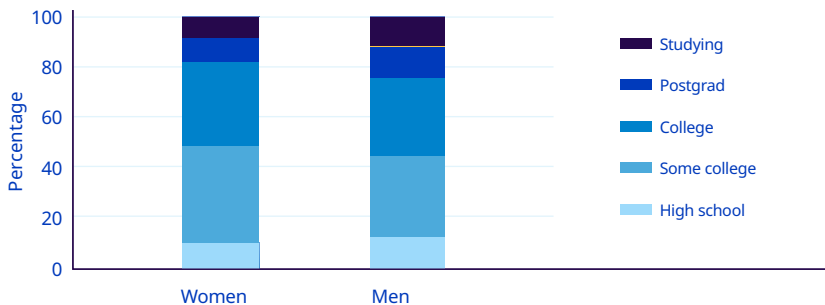
Gender differences in who crowdworks and why

Crowdworkers are typically younger and better-educated than the average American worker. The average age of sample respondents is 35.4 years, whereas the age of the median US worker is 41.9 years.⁸ Forty-nine per cent of MTurk workers have a bachelor's or higher degree, compared to 32.5 per cent in the economy at large. The gender composition of crowdworkers is similar to that of the US workforce as a whole; 48 per cent of the sample are women, while women comprise 46 per cent of the US working population.⁹ For the rest of this section, we focus on documenting the key differences and similarities in the characteristics of men and women who work on MTurk.

1. Women and men have similar levels of education

There are no significant differences in the education levels of men and women in the sample. Both are highly educated. Forty-seven per cent of women and 49 per cent of men have a bachelor's degree or above. There is a slight tendency for crowdworking men to still be studying compared to women (14 per cent and 11 per cent, respectively) but this difference is not statistically significant.

► **Figure 1. Education by gender**



⁷ For additional information on the survey design and sampling, see Berg (2016).

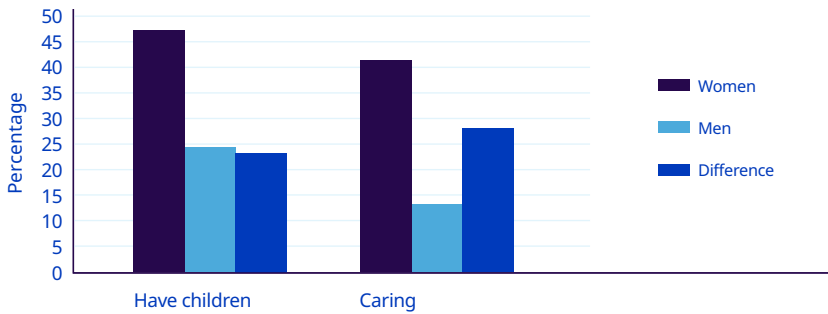
⁸ United States Department of Labor (2015), "Labor force projections to 2024", *Monthly Labor Review*, December 2015. <https://www.bls.gov/opub/mlr/2015/article/labor-force-projections-to-2024-1.htm>.

⁹ The World Bank Data Indicator, <http://data.worldbank.org/indicator/SL.TLF.TOTL.FE.ZS>.

2. Women are more likely than men to have children and additional care roles

Key differences in the composition of female and male crowdworkers emerge when looking at the structure of the households in which they live and their care responsibilities. Forty-seven per cent of women compared to 24 per cent of men had children at the time of the survey, a huge 23 percentage point gap.¹⁰ Women live in larger households; the average household size for female crowdworkers is 2.86 compared to 2.39 for male crowdworkers. Many more women come to crowdwork from a care role and have care responsibilities while crowdworking. All of these gender differences are statistically significant at the 1 per cent level.

► **Figure 2. Gender differences in care responsibilities**



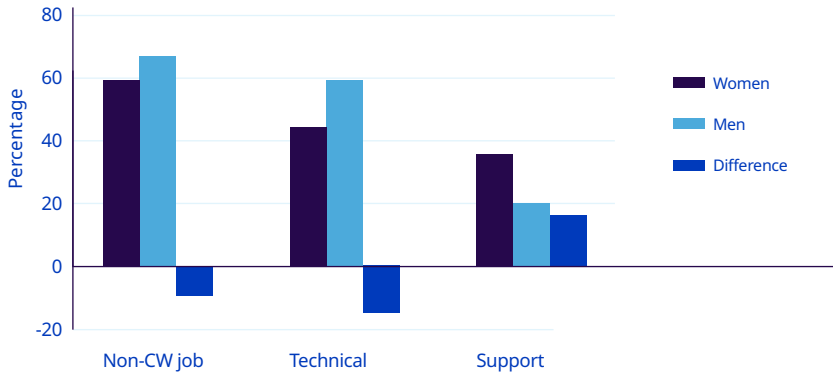
Notes: “Have children” indicates respondents who have at least one child under 18 years of age. “Caring” records whether the respondent was a primary carer prior to crowdworking.

3. Men are more likely to have another non-crowdwork job, and to be working in a professional or technical occupation

Male crowdworkers are slightly more active in the “offline” labour market than their female counterparts and more likely to be working in a technical occupation. While the proportion of the sample working in the offline economy is large (59 per cent of women and 67 per cent of men), men are 9 per cent more likely than women to hold additional jobs besides crowdwork. Among those who have a non-crowdwork role, men work more hours (36 hours per week to 30 hours per week) and have significantly higher average earnings (US\$700 per typical week to US\$400 per typical week). While the majority of men with an offline job work in professional and technical occupations, a larger proportion of women work in support and clerical occupations.

¹⁰ This difference is significant at the 1 per cent level.

► **Figure 3. Gender differences in offline labour market activity**



Notes: “Non-CW Job” indicates respondents who have another job in addition to their crowdwork (CW). “Technical” indicates respondents who have an offline occupation in the categories: manager, professional, technical and associate professional. “Support” indicates respondents in an offline occupation in the category clerical support worker or service and sales worker.

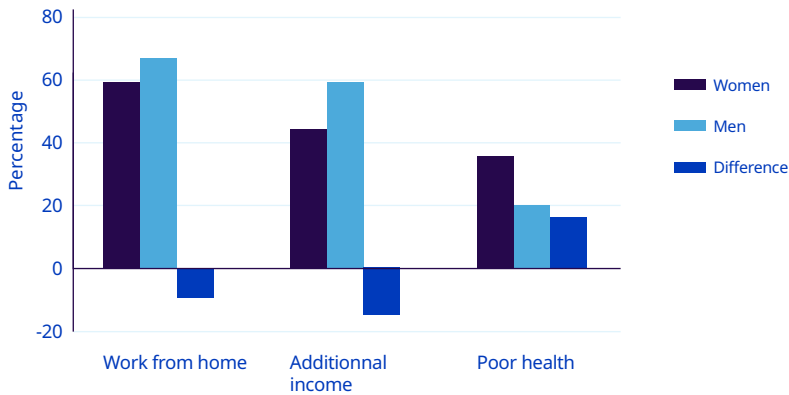
4. Gender differences in motivation for crowdworking

Women are more likely to be crowdworking because it is difficult for them to work outside the home whereas men are more likely to be crowdworking to top up their non-crowdwork income.

The motivation for engaging in crowdwork differs between genders. Additional income is the major factor influencing men’s decision to crowdwork, cited by the majority of male respondents. While this is also important for a sizable group of women (39 per cent), women are 11 percentage points more likely to report that the main reason they crowdwork is because it is difficult for them to work outside the home (35 per cent to 24 per cent). A large share of sample respondents (14 per cent overall) report health problems that interfere with their ability to complete day-to-day tasks. Among women, 18 per cent report a health problem that affects the kind of paid work that they might do; among men, 10 per cent report similar health problems. This finding confirms overall labour market statistics on self-employment in the United States. According to the Current Population Survey (CPS), self-employed women are in poorer health and more likely to be disabled than other worker groups (Roche, 2014).¹¹

¹¹ In 2012, according to CPS data, 8.9 per cent of women report fair or poor health and 5.1 per cent report being disabled. Among men, 6.1 per cent report fair or poor health and 1.9 per cent report being disabled.

► **Figure 4. Gender differences in motivation for crowdwork**



Gender differences in crowdwork patterns

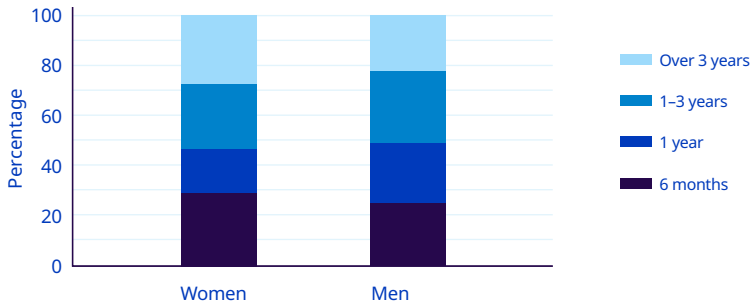
Key outcomes from the data thus far are that female and male crowdworkers have different care responsibilities, and that constraints around working at home are more onerous for women than men. We now consider whether there are any differences in how the genders work on platforms: Do men and women work similar numbers of hours and complete a similar number of HITs? Are they both working across similar numbers of crowdwork platforms at similar times of the day?

Working hours. Men and women work a similar number of hours per week at similar times of the day, although women spread their hours over more days. Men and women both spend approximately 30 hours crowdworking in a typical week. However, women spread their work out over a larger number of days, with 64 per cent of women working either six or seven days per week compared to 57 per cent of men crowdworkers. There are no significant differences in the time of day when men and women crowdwork. The majority of respondents are equally likely to work during the morning, afternoon and evening. Approximately 35 per cent of men and women report working at night.

Tenure. Men and women have similar work experience levels; on average, they have crowdworked for a similar length of time, completed a similar number of HITs and work on a similar number of platforms. On average, men and women have similar crowdwork profiles. Approximately one quarter of sample respondents had started crowdworking in the six months prior to the survey, while another quarter had been crowdworking for three years or more, with no significant differences in responses between men and women. Survey respondents

had completed an average of 38,263 HITs with, again, no significant differences between men and women.

► **Figure 5. Gender differences in tenure**



Searching for tasks. Although men and women spend the same amount of time on platforms, they may devote that time differently to searching for versus completing tasks. We find no evidence of this. Of total time spent on platforms, women and men report spending 72 per cent and 74 per cent of their time completing paid tasks respectively, with the difference not statistically significant.

Caring responsibilities while working. Men and women with a non-crowdwork job are equally likely to work on crowdwork platforms during the working hours of their alternative job; 40 per cent of both genders with another job report working in this manner. However, women are more likely to report juggling crowdwork and care duties in the home at the same time. In their qualitative responses to the survey, approximately 11 per cent of women explicitly mention that they do domestic and crowdwork simultaneously; only 2 per cent of men mention this.

Gender pay gaps in crowdwork

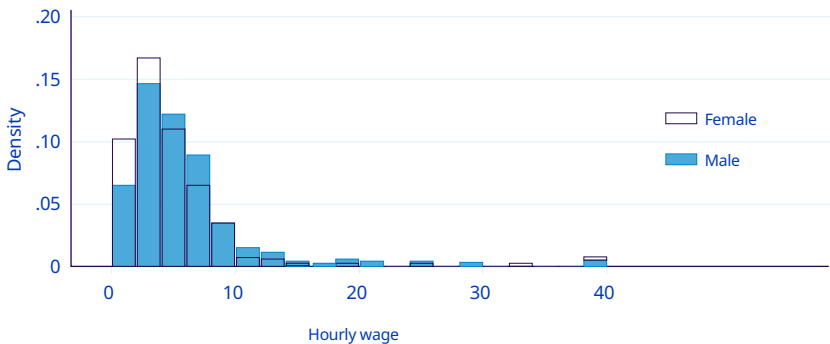
Considering that women and men have similar levels of education, similar levels of crowdwork experience and work a similar number of hours on MTurk each week, it might follow that men and women have similar platform earnings on average. This is not the case. Women earn significantly less in a typical week and significantly less per hour than men. Further, the gender pay gap on MTurk is of the same magnitude as that documented in the offline economy.

To construct a measure of hourly earnings, a respondent's typical weekly earnings were divided by their typical weekly hours worked. This yields wages per

paid hour worked and wages per hour on the platform (including search time).¹² Figures 6a and 6b show the distribution of wages per hour and per paid hour on the platform, respectively. Bar height corresponds to the probability that a wage lies in that interval: high bars denote a large share of the sample respondents reporting that their wages lie in that interval, whereas a low bar reflects a very small share of sample respondents indicating a wage at that level. Wages for most are low. Ninety per cent of sample respondents earn an hourly wage of less than US\$10. The median wage per paid hour is US\$6 and the median wage per hour spent on the platform is US\$4.56.

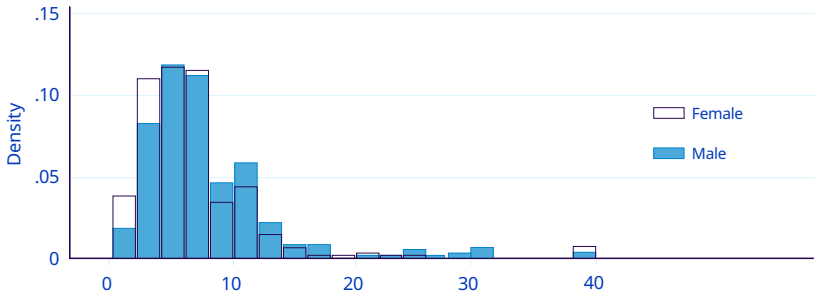
Yet looking only at the sample average masks significant gender differences in platform earnings. On average, women earn approximately one US dollar less per hour than men regardless of the wage measure used. Both panels in figure 6 reveal that a larger proportion of women earn very low wages on the platform, even if men and women are both equally unlikely to earn high wages. The clear bars that correspond to women are highest at the bottom wages, and significantly higher than that of the blue bars denoting the probability that a man's wage falls in that interval. Forty-seven per cent of women compared to 36 per cent of men earn a wage per paid hour of less than US\$5. The concentration of women earning low wages is even more pronounced. Twenty-one per cent of women compared to 10 per cent of men earn less than US\$3 per paid hour on platforms.

► **Figure 6a. Distribution of wages per hour on platform**



¹² The survey found that workers averaged slightly over one quarter of their time on unpaid tasks such as looking for work and screening requesters. Analysis of both "paid" and "total" (paid + unpaid) time shows no difference in the results. The chapter reports on the analysis of the more restricted "paid" time.

► **Figure 6b. Distribution of wages per paid hour on platform**



Analysing the gender pay gap on MTurk

The gender wage gap on the MTurk platform is perhaps surprising. As employers cannot vary the price of a task on the basis of whether a “Turker” is male or female, direct discrimination on the basis of gender is not likely to be a salient explanatory factor behind the patterns revealed.

Two questions are relevant to understanding the factors underlying the gender pay gap:

1. Do male and female crowdworkers have different characteristics? Namely, do men have “more of” the characteristics that are associated with high crowdwork earnings. For example, if men are more likely than women to work in a technical occupation that requires coding skills, they might have more of the skills required to succeed on online platforms.
2. Do male and female crowdworkers with the same characteristics earn different amounts? Are there characteristics that influence the wages of men and women differently? This can occur if male and female crowdworkers with the same observed characteristics face different unobserved constraints or have different preferences for tasks that influence earnings. For example, having a child might make it harder for women to work in the home if they are expected to care for the children at the same time as crowdworking. If men are not expected to care for children in the same way, the presence of children in the household might not affect their earning potential as much.

To answer these two questions in detail, we conducted a series of Oaxaca-Blinder wage decompositions, used routinely in the literature on the gender wage gap to quantify the contribution of various factors to the difference in wages between men and women. Using regression analysis, the difference in average wages can be converted into a “characteristics” component, which

arises from differences in the characteristics of men and women (Question 1), and into a “returns” component, which reflects differences in how the same measured skills and characteristics translate into wage and earnings increases for men and women (Question 2).¹³

Average wage gap. There is an overall average gender wage gap to explain of approximately 23 log points. This is of a similar magnitude to that reported by other studies that use data from the offline economy. For example, using US data Fortin, Lemieux, and Firpo (2011) report an identical number for the unconditional wage gap. Applying the Oaxaca-Blinder wage decompositions to our data reveals that the differences in the reported demographic and working characteristics of men and women can account for 65 per cent of the difference in average wages. However, we cannot reject the hypothesis that 100 per cent of the wage gap can be accounted for by differences in characteristics between the genders. That we can account for so much of the wage gap is unusual in the literature. This is perhaps because our study is restricted to one occupational group, a more detailed set of questions than usual on family background and working conditions was asked, and there is no role for direct employer discrimination.

Differences in the demographic characteristics of men and women explain 44 per cent of the wage gap. For example, our regression analysis shows that age and poor health negatively correlate with crowdwork earnings, while having offline experience in a technical or professional occupation is positively related with wages. Considering that female crowdworkers are on average older than men, more likely to report having a health condition that affects their ability to perform day-to-day tasks, and less likely to have outside technical experience, this then accounts for a significant portion of the wage gap.

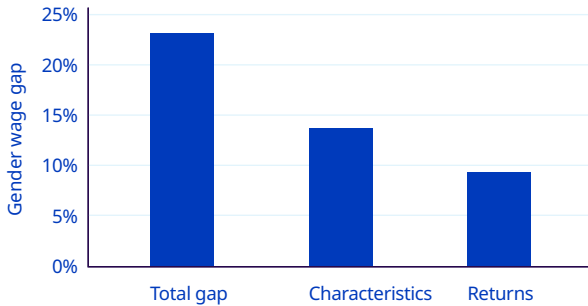
Differences in the family structure of male and female crowdworkers account for little of the difference in average wages. While gender differences in work experience on platforms and working patterns (multitasking) – including total HITs completed, number of months crowdworking and number of platforms worked on – explain another 20 per cent of the overall gap, our estimates are not statistically significant in this specification.

While this analysis can help shed light on some of the different characteristics between male and female crowdworkers that account for the difference in earnings, it cannot shed light on *why* the men and women who crowdwork have different characteristics. Why is it that women do not have technical experience comparable to that of men? Is this due to discrimination in the offline labour market or the influence of social norms? Do these social norms affect the way women and men perform their work? Why does having children correlate with lower wages? The data alone do not enable us to answer such questions. Further, our measures might be proxying for other factors that are

¹³ This section reports the main results; regression tables can be obtained from the authors.

in fact driving the differences. We thus try to focus on outlining the patterns in the data at this point, before returning to combine our quantitative results with qualitative information from the survey in the next section.

► **Figure 7. Decomposing the average gender wage gap**



► **Table 1. Contribution of characteristics to the gender wage gap**

Gap	Total Characteristics	Demographics	Work Experience	Family	Multi-tasking
23.2%***	13.8%***	10.2%***	2.26%	0.00%	2.46%

Note: *** Significant at 1% level

Demographics: age, rural/urban, poor health, education at BA level or above, second job in professional/technical occupation

Experience: CW for less than six months, CW for one to three years, CW more than three years, work only on MTurk, work on more than two platforms, HIT rejection rate, proportion of time searching for HITs

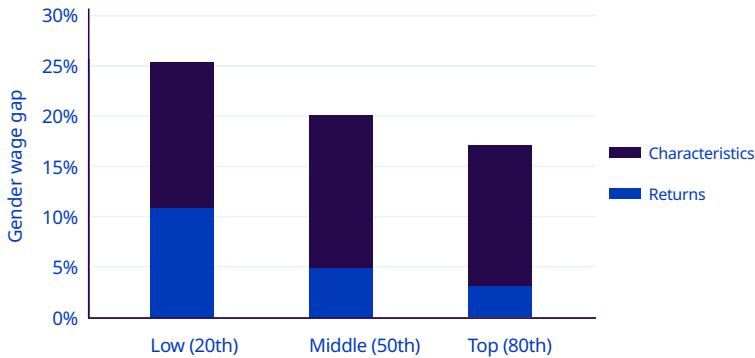
Family: Children under age 18, care responsibilities, working from home most important reason do CW

Multitasking: CW during paid employment, CW while completing care responsibilities

Wage gaps across the distribution. Figure 6 highlighted that differences in wages by gender were particularly pronounced at the bottom end of the labour market, among the lowest earners. Indeed, there seemed to be few differences between high earning male and female crowdworkers. We therefore analyse the wage gap at the bottom (20th percentile, women’s wage), middle (50th percentile) and top (80th percentile) of the wage distribution to see whether this yields any new insights.

Note that wages remain low across the board, even at the “top” of wage distribution: at the 20th percentile, women’s hourly wage is US\$2.20 and the hourly wage of men is US\$2.94; at the 50th percentile, women’s hourly wage is US\$4 and the hourly wage of men is US\$5; and at the 80th percentile, women’s hourly wage is US\$6.67 and the hourly wage of men is US\$8.

► **Figure 8. Decomposing the gender wage gap at low, medium and high wages**



First, analysis confirms that the gender wage gap is highest among crowdworkers with the lowest earnings. The gender wage gap is approximately 25 per cent at the 20th percentile of the wage distribution, 20 per cent at the 50th percentile and 17 per cent at the 80th percentile. The pattern of a declining wage gap as one moves into higher earnings is the opposite pattern to that found in the offline economy. For example, in Fortin et al. (2011), the gender wage gap rises from 17 per cent at the 10th percentile to 26 per cent at the 90th percentile.

The fraction of the wage gap that can be explained by differences in characteristics remains relatively high across income distribution. Differences in the characteristics of men and women explain: 14.3 of the 25-percentage point wage gap at the 20th percentile (57 per cent of the total gap); 14.7 of the 20-percentage point wage gap at the 50th percentile (73 per cent of the total gap); and 13.9 of the 17-percentage point wage gap at the 80th percentile (81 per cent of the total gap). Once again, we cannot reject the hypothesis that differences in our control variables fully account for the gender wage gap at all three wage levels at any conventional significance level.

► **Table 2. Contribution of characteristics to the gender wage gap, by percentiles of the wage distribution**

	20th	50th	80th
All Characteristics	17.5%***	17.7%***	13.9%***
Demographics	9.6%***	12.2%***	6.0%**
Working Experience	2.8%	2.3%	1.5%
Family	-3.2%	-5.6%	2.2%
Multitasking	5.1%**	5.7%***	4.2%*

Note: *** Significant at 1% level; ** Significant at 5% level; * Significant at 10% level.

Demographics: age, rural/urban, poor health, education at BA level or above, second job in professional/technical occupation

Experience: CW for less than six months, CW for one to three years, CW more than 3 years, work only on MTurk, work on more than two platforms, HIT rejection rate, proportion of time searching for HITs

Family: Children under age 18, care responsibilities, working from home most important reason do CW

Multitasking: CW during paid employment, CW while completing care responsibilities

Differences in the age and health status of male and female crowdworkers again account for a large proportion of the wage gap; women are older and have worse health across the wage distribution, both factors correlated with lower earnings.

However, a new insight from this analysis is the contribution of multitasking to the overall gender wage gap. Simultaneous juggling of care responsibilities and crowdworking has a large negative impact on earnings. Surprisingly, reporting crowdworking during the working hours of an alternative job had little impact on crowdwork earnings. As it is predominantly women in our sample who simultaneously combine care and crowdwork, this could explain between 4.2 percentage points to 5.7 percentage points of the overall wage gap at different points of the distribution (all statistically significant). Multitasking, along with poor health and lack of experience in a profession/technical occupation, is one of the most important factors associated with the female pay penalty.

How home affects work: Making sense of the gender wage gap in crowdwork



I am able to help my disabled husband when he needs me and still bring in money."

"I have two small children. I am responsible for the cooking, cleaning, etc. This gives me the flexibility to get my 'work' done."

Analysis documented that a large gender wage gap, of a similar magnitude to that observed in the offline economy, exists on MTurk. It is highest among the lowest-earning crowdworkers, and smaller for men and women located towards the top of the platform wage distribution. An important feature arising from the quantitative analysis is that women who crowdwork while at the same time caring for children or adults in the home suffer a particular pay penalty relative to men. To better understand the reason for this, we turn to the qualitative responses to the survey.

In the sample, 156 workers earned less than US\$3 per hour, 95 women and 61 men. Among the low-earning women, care responsibilities, difficulties in organizing or paying for childcare, health problems, lack of a Master's status,¹⁴ lack of job opportunities where the worker lives (or lack of transportation to reach job opportunities) and the desire to supplement their income, were salient themes among the female qualitative responses. For the men, the ability to supplement their income was a resounding theme; many also noted health problems and lack of a Master's status.

One worker explained that she could not find other employment because she needed "to work around a toddler" and appreciated that she could "live on my husband's schedule and never have to miss time with him." Another described how she was "a stay-at-home mom and we need to supplement our household income, but not pay the extremely high prices of childcare." One disabled mother explained how she had post-traumatic stress disorder which made it difficult for her to work outside the home but that she also "[has] a child, so I need to be home to take care of her during school breaks." Besides caring for children, many of the respondents also noted care responsibilities for adult

¹⁴ Obtaining the MTurk Master's status gives workers access to more and potentially higher-paying jobs on the platform; it is the default setting when tasks are posted on the platform. According to Amazon, Master's status is awarded to the best workers (see https://www.mturk.com/mturk/help?helpPage=worker#what_is_master_worker). However, discussions on worker forums reveal that the designation is largely ad hoc. See <https://www.mturkcrowd.com/threads/masters-qualification-info-everything-you-need-to-know.1453/>.

family members, including parents. As one woman explained, “I am unable to work because I take care of my ill mother and being a crowdworker gives me the flexibility and means to make some money while I am confined at home”. She also added (in response to the question “If you could change something about crowdwork what would it be?”) that it should be “easier to catch the HITs”, suggesting possible difficulties in finding higher-paying tasks on the platform.

The qualitative responses suggest that many low-earning, female crowdworkers are multitasking, simultaneously combining work and care duties. There is extensive literature on the negative impact of multitasking on productivity. The psychology literature documents a robust “switching cost” when changing tasks in experimental settings (see Monsell, 2003). The economics literature has attempted to estimate the causal effect of task juggling in non-experimental settings. For example, Coviello et al. (2010) show that judges who, for exogenous reasons, work on many court cases in parallel take more time than judges who work sequentially to complete a similar portfolio of cases. In our setting, the productivity of female crowdworkers might thus be directly affected by their juggling work and care duties, interfering with their ability to earn more on platforms.

The structure of crowdwork tasks and remuneration might also exacerbate the productivity penalty associated with multitasking. HITs posted on MTurk must be completed within a particular time frame or else a worker loses access to the task. Depending on the HIT design, all work progress may be lost, and when the timer expires on any HIT there is no mechanism to compensate the worker for work they have completed. Thus, those who know they are likely to face work interruptions, such as women with small children at home, may be more likely to take tasks that require just a minute or so of work to enable them to juggle work and interruptions. Such tasks are known as “penny HITs” among crowdworkers. Taking a longer task, which typically pays more, comes with the risk that if the worker is interrupted for too long, the timer will run out. Some survey respondents explained their need to be able to interrupt their work to attend to care duties:



My daughter gave birth to a very premature baby one year ago. My daughter also became ill as a result of the sudden birth. I had to quit my job and move several states away to care for them. The baby is out of the hospital, but as with most preemies, her lungs are not fully developed. She has to stay isolated until at least two years of age. So, I have to stay isolated in order to not expose her to germs and viruses, because it will immediately impact her immature lungs. MTurk allows me to stop a HIT, if need be, so that I can care for the baby if she starts coughing, shaking, etc."

"I am currently the only care provider for my elderly disabled mother. She suffered a stroke and is totally reliant on me for care. Therefore, I have to be able to tend to her at a moment's notice. Being able to take jobs on MTurk when I have free moments is the flexibility I need, since I cannot be tethered to a computer or other work."

Certain tasks are very difficult to complete while simultaneously caring for children or other family members. For example, some HITs require creating verbal recordings of a crowdworker giving commands to train artificial intelligence (AI) systems or create data sets for AI development. Professional crowdworker Rochelle LaPlante, who moderates a number of crowdwork web forums and acts as a Digital Worker Advocate, explained:



Google often posts large batches of work where workers say 'OK Google...' followed by a variety of commands, to help train Google Home and other voice-activated features Google has. However, these types of HITs require a silent work environment with no background noise. Women at home with children (or other family members they're caring for) often do not have silent work environments and cannot accept these types of tasks."

Thus, while crowdwork enables women with care responsibilities to work, those responsibilities restrict the types of tasks that women can do, reducing their earnings relative to men.

Policy implications

The need for more affordable childcare is a consistent policy recommendation resulting from gender pay gap studies in the offline labour market. Results here confirm that the same policy is required to achieve gender equality in crowdwork. While the existence of crowdwork platforms enables more women

with care responsibilities to participate in paid work, low-earning women still face greater barriers to earning compared to men. Simultaneous conduct of work and care duties seems to hinder women's ability to earn higher wages by limiting the types of HITs women can perform and reducing women's productivity on the job. The fact that work can now be done from home does not imply that the home no longer affects work.

Public childcare provision in the United States lags behind that of other industrialized countries. In the United States, childcare has typically been regarded as a private matter, with little role for government beyond providing programmes for some disadvantaged families. Most childcare centres are run by the private sector, with an estimated one third run as for-profit entities (Pettit and Hook, 2005). According to the OECD, the US spends 0.3 per cent of GDP on public provision of childcare compared with 0.6 per cent in France and 1.1 per cent in Sweden.¹⁵ Many crowdworkers stated that they crowdworked because the high cost of childcare made it economically untenable for them to work out of the home, confirming the extensive international evidence of the relationship between the public provision of childcare and women's ability to remain in the labour market (Pettit and Hook, 2005; Anxo et al., 2011; Mandel and Semyonov, 2005).

In addition, there is a need to address the household division of labour since gender equality in the home is the foundation for gender equality in the workplace. Public policies can play an important role by encouraging men to take greater responsibility for care and household tasks. Parental-leave policies are widely acknowledged as instrumental in giving men the opportunity to develop their parenting skills and a greater sense of responsibility as a "co-parent" (ILO, 2014). Paternity leave provisions exist in nearly 80 countries and vary in duration from a few days to a few months; in most instances, the leave is paid (ILO, 2014). The United States does not grant new fathers the right to paternity leave. It is also an outlier with respect to maternity leave, being just one of two countries (along with Papua New Guinea), out of 185 countries and territories with information available, that does not provide cash benefits to women during maternity (ILO, 2014). The lack of maternity leave benefits often results in women dropping out of the labour force upon the birth of their child, with long-term effects on their labour market prospects. This withdrawal, coupled with men's inability to take paid leave, affects the distribution of labour in the household.

Yet another fundamental issue concerns working conditions in crowdwork in general. While there are differences in earnings among MTurk workers, the majority are earning very low wages, in most instances less than the federal minimum wage of US\$7.25 per hour. The platform has classified the workers as independent contractors and as such they are not entitled to benefit from laws regulating work, such as minimum wage laws, working time and overtime

¹⁵ See OECD Family Database available at <http://www.oecd.org/els/family/database.htm>.

provisions, social security contributions from employers, or the right to organize and bargain collectively. Yet wage-setting institutions are instrumental in raising earnings of the less-skilled and help to compress the wage distribution, thereby reducing wage inequality among workers. Indeed, the smaller gender wage gap found in some European countries is attributed to the wide coverage of collective bargaining (Blau and Kahn, 2003; Mandel and Semyonov, 2005). As earnings are low on micro-task platforms, the recognition of these workers as employees and the application of the minimum wage would be sufficient to compress earnings. But more fundamentally, strengthening labour-market institutions in the United States – including increasing the minimum wage and thresholds for overtime payment, greater efforts to address employment misclassification and the “fissuring” of employment, as well as expanding freedom of association and collective bargaining rights – would help to improve the earnings of workers in the overall labour market, making it less necessary for some workers to “complement their pay” by crowdworking.

Conclusion

This study is based on a unique data set of micro-task crowdworkers to assess whether there is a gender pay gap among home-based workers whose sex is unknown to the “employer”. Surprisingly, the survey revealed the existence of a gender wage gap, despite the impossibility of employer discrimination, with women earning on average 82 per cent of what men earn. However, further analysis of the data revealed that the earnings gap between men and women could largely be explained by the individual characteristics of the worker, such as their level of education, work experience in the offline labour market, their crowdworking experience, as well as their health status and age. Indeed, these differences accounted for 65 per cent of the differences in average wages, which is a much greater percentage than that typically found in studies of the gender wage gap.

While women and men in the sample were similar in terms of their working patterns and tenure on the platform, women are more likely to be part of larger families and to report crowdworking and caring for family members simultaneously. The juggling between home and work is particularly pronounced among lower-earning crowdworkers, where the gender pay gap is most pronounced. Nevertheless, the survey includes questions that allow for the controlling of such compound responsibilities, and we find that this explains between 4.2 percentage points to 5.7 percentage points of the overall wage gap at different points of the distribution.

While crowdworking enables some women to participate in paid work who might otherwise not be able to work and earn income, it also reveals the inequities that many women face. Many crowdworking women cannot work outside

the home owing to a lack of affordable childcare. They shoulder the bulk of care responsibilities, which affects how they work, including the type of micro-tasks that they do, and ultimately their earnings. Moreover, the unregulated nature of crowdwork – with workers classified as independent contractors and thus not privy to labour law protections of employees, such as the minimum wage – has meant that the earnings of nearly all surveyed crowdworkers are very low, in most instances below the minimum wage. There is need for public debate and response on the regulation of crowdworking platforms, as well as with respect to public policies that can support working families.

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► The future of work for LGBTI people

Gurchaten Sandhu

Introduction

In a utopian world of work, free of discrimination, persons of diverse sexual orientation, gender identity, gender expression and sex characteristics (SOGIESC), would not only be able to access work but also be treated equally as their heterosexual, cisgendered, endosex counterparts. Many lesbian, gay, bisexual, trans and intersex (LGBTI)¹ people experience high rates of discrimination, both direct and indirect, as well as violence and harassment in the workplace. The problem is exacerbated by the many different barriers of discrimination that prevent LGBTI people from even accessing employment and essential (public) services such as education, health and housing (UN, 2018). As the LGBTI population is not one homogenous population (Formby, 2012), not all LGBTI people, however, face these challenges. Those who pass as cisgender people, heterosexual and/or endosex can easily hide their SOGIESC identities, while those who are visibly trans and/or have behaviours and mannerisms not aligned with their sex assigned at birth face and carry the largest burden of discrimination in the community. Consequently, those who do not pass or take on hetero-normative behaviours and values are marginalized and often end up in informal work, and therefore are more vulnerable not only to social and cultural stigma but also to economic shocks that impact the labour market. With the fourth industrial revolution such shocks in the future will be exacerbated by technological advances. The report by the Global Commission on the Future of Work, *Work for a brighter future* (2019) highlights that with the rise of automation many workers are at risk of losing their jobs. The impact will ripple and affect the most marginalized, including LGBTI people.

1 For the purpose of this chapter the acronym LGBTI will be used to refer to Lesbian, Gay, Bi-sexual, Trans and Intersex persons. The author is aware that other identities exist on the SOGIESC spectrum, but all are not explicitly referred to here. Certain references in this chapter may not use the same acronym. In such cases the author will use the acronym used in the source to reflect the true demographic group referenced so as not to misrepresent any groups or misquote the source.

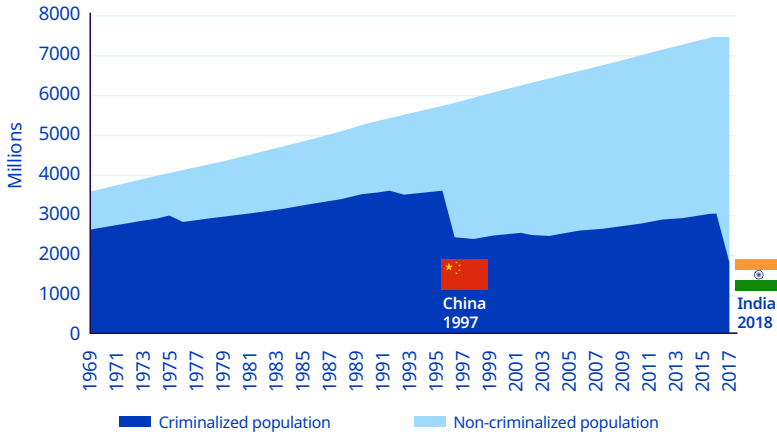
Evidently “the spiral of discrimination, marginalization and exclusion may start within the family, extend to the community and have a life-long effect on socio-economic inclusion” (UN, 2018). Discrimination impacts not only those being marginalized. Studies have shown that where LGBTI people face human rights violations this has a negative impact on the economy, too. Badgett et al. (2019) argue this impact can manifest in “lost labour time, lost productivity, underinvestment in human capital and suboptimal use of human resources.” Badgett et al. (2019) found that the expansion of rights for LGB people is associated with an increase in real GDP per capita of just over US\$2,000 per year.

This chapter presents the current-day challenges that LGBTI people face in the world of work, in order to better understand what needs to be done to ensure a future of work that is diverse and inclusive for all. All too often, LGBTI rights advocacy focuses largely on decriminalization followed by protection against discrimination, thus falling short of mainstreaming SOGIESC into other areas of labour law. This chapter is divided into three sections. The first explores the progress made via international legal instruments and in national legislation to ensure non-discrimination on the grounds of sexual orientation, gender identity, gender expression and sex characteristics. Yet despite such advances, LGBTI people continue to face challenges even in labour markets that offer fairly comprehensive protections on paper. Evidence of the realities of LGBTI people in the workplace is reviewed in the second section of the chapter, and this from three perspectives: equality of opportunity, equality of remuneration and freedom from workplace harassment. The third section explores how issues such as education and legal gender identity can impact the engagement of LGBTI people in the labour market. Throughout the chapter, the discussion also offers recommendations to ensure an inclusive future of work for LGBTI persons.

The legal situation

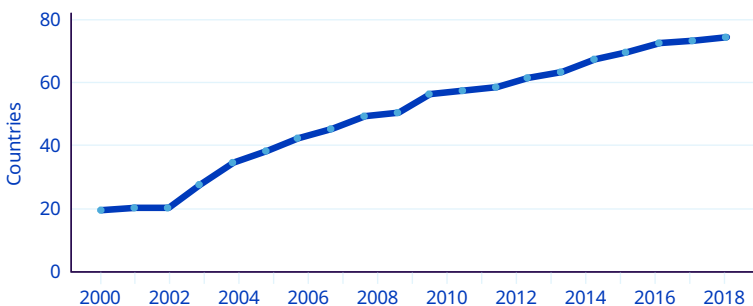
According to the International Lesbian Gay Association (ILGA) *State-Sponsored Homophobia* report 2019 (Mendos, 2019), 68 UN Member States (35 per cent) have laws that criminalize consensual same-sex acts between adults. The legal terms vary from country to country, from specific acts or behaviour to vague language such as “acts against nature”, “indecency”, “immoral acts” (Mendos, 2019). In 11 UN Member States, same-sex intimacy is punishable by death. On the other hand, in 123 UN Member States (65 per cent) consensual same-sex sexual acts are legal (Mendos, 2019). The proportion of the global population living in criminalizing UN Member States has gradually decreased over the years, not least thanks to legislative changes in China in 1997 and to the recent decriminalization of same-sex consensual acts in India that struck down a colonial law referred to as Section 377 of the Penal Code. See figure 1.

► **Figure 1. Number of people living in countries that criminalize LGBTI people (Mendos, 2019)**



When it comes to protection against discrimination based on sexual orientation in employment, the picture is bleak. Although there has been progress, only 74 UN Member States (38 per cent) have laws in place that provide protection against discrimination based on sexual orientation (see figure 2). Interestingly, Kiribati, Mauritius, Saint Lucia, Samoa and Tuvalu, all have legal protection against discrimination based on sexual orientation but still have laws in effect that criminalize same-sex sexual intimacy. This suggests the need for aligning different bodies of the law and that the road to equality and inclusion for all is not the same for all countries.

► **Figure 2. Number of countries that include sexual orientation as grounds for protection in employment**



International instruments such as the International Covenant on Economic, Social and Cultural Rights (ICESCR) (OHCHR, n.d.) and many ILO Conventions protect the right to work of all people without distinction. Article 6 of the ICESCR obliges ratifying Member States to not only “recognize the right to work” but also take steps “to achieve the full realization of this right ... to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual”. Article 7 obliges States to recognize that everyone has the right to work with “just and favourable conditions,” and lists the conditions that a State should provide. Article 8 obliges States to ensure a number of labour rights, including the right to form and join trade unions as well as the right to strike. The conditions and rights set out in Articles 7 and 8 are also reflected in ILO Conventions, notably and most importantly in four ILO fundamental conventions: Equal Remuneration Convention, 1951 (No. 100); Discrimination (Employment and Occupation) Convention, 1958 (No. 111); Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87); and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

In 2016, the United Nations Committee on Economic, Social and Cultural Rights in its General Comment No. 23 (UN CESCR, 2016) set out guidelines and principles concerning Article 7 of the ICESCR related to sexual orientation, gender identity and gender expression, as follows:

Equal remuneration

“Not only should workers receive equal remuneration when they perform the same or similar jobs, but their remuneration should also be equal even when their work is completely different but nonetheless of equal value when assessed by objective criteria. [...] the Committee reiterates that equality applies to all workers without distinction based on race, ethnicity, nationality, migration or health status, disability, age, sexual orientation, gender identity or any other ground.” (UN CESCR, 2016, paragraph 11, p. 4)

Equality of opportunity

“All workers have the right to equal opportunity for promotion through fair, merit-based and transparent processes that respect human rights. This is highly relevant for women and other workers, such as workers with disabilities, workers from certain ethnic, national and other minorities, lesbian, gay, bisexual, transgender and intersex workers, older workers and indigenous workers.” (UN CESCR, 2016, paragraph 31, p. 8)

Freedom from harassment, including sexual harassment

“All workers should be free from physical and mental harassment, including sexual harassment. Legislation, such as anti-discrimination laws, the penal code and labour legislation, should define harassment broadly, with explicit reference to sexual and other forms of harassment, such as on the basis of

sex, disability, race, sexual orientation, gender identity and intersex status.” (UN CESCR, 2016, paragraph 48, p. 14)

The Yogyakarta Principles (YP) and Yogyakarta Principles +10 (YP+10) are a set of international legal principles on the application of international law to human rights violations based on sexual orientation, gender identity, gender expression and sex characteristics.² Each of the principles is mutually inclusive and reinforces the others. Principle 12 of the YP states that: *“Everyone has the right to decent and productive work, to just and favourable conditions of work and to protection against unemployment, without discrimination on the basis of sexual orientation or gender identity.”* (The Yogyakarta Principles, 2007).

Principle 12 also calls on States to: *“Take all necessary legislative, administrative and other measures to eliminate and prohibit discrimination on the basis of sexual orientation and gender identity in public and private employment, including in relation to vocational training, recruitment, promotion, dismissal, conditions of employment and remuneration;*

Eliminate any discrimination on the basis of sexual orientation or gender identity to ensure equal employment and advancement opportunities in all areas of public service, including all levels of government service and employment in public functions, including serving in the police and military, and provide appropriate training and awareness-raising programmes to counter discriminatory attitudes.” (The Yogyakarta Principles, 2007).

Alone, this principle is not enough to ensure the inclusion and equality of LGBTI people in the world of work. Therefore, Principle 12, the right to work, is reinforced by Principle 16, in particular when it calls on States to *“Ensure that everyone has access to opportunities and resources for lifelong learning without discrimination on the basis of sexual orientation or gender identity, including adults who have already suffered such forms of discrimination in the educational system.”* (The Yogyakarta Principles, 2007).

The reality

Yet despite these international conventions, treaties and principles and much progress since the Stonewall riots,³ the reality is that in practice LGBTI people continue to face discrimination, violence and stigmatization prior to entering the labour market, throughout the employment cycle and concerning social protection rights, such as access to survivor pensions (ILO, 2013).

² The YP only covered sexual orientation and gender identity, the YP+10 expanded on the grounds and included gender expression and sex characteristics.

³ The Stonewall riots were a series of spontaneous, violent demonstrations by members of the LGBTI community against a police raid on 28 June 1969, at the Stonewall Inn in the Greenwich Village neighbourhood of Manhattan, New York City.

For many LGBTI people the guarantee to work is not sufficient for decent work. Protection and non-discrimination in the workplace need to be accompanied by equal access to relevant public services such as transport, education and health necessary for all workers to be fully optimal and productive at work. It is also true that the inability to access decent work may impair access to housing, health, education, etc. This cyclical spiral relationship makes LGBTI people more susceptible to poverty which can be compounded by other forms of discrimination such as race, age, nationality, etc. (UN, 2018). It is no surprise that “Sexual and gender minorities are... overrepresented in the bottom 40% of the global population” (World Bank, 2015).

Equality of opportunity

Hiring and employment status

Evidence based on surveys shows that as early as the hiring and recruitment process, LGBTI people face discrimination (Valfort, 2017). Tebaldi and Elmslie (2006, cited in Valfort 2017) found that, in comparison to their heterosexual counterparts, gay men are less likely to be employed, more likely to work part-time, and work fewer hours. This shows that not only do gay men face discrimination in the hiring process but they are more likely to be underemployed. Analysis of data from Sweden shows that partnered gay men suffer a 7 per cent employment penalty in comparison to heterosexual partnered men. Aksoy, Carpenter, and Frank (2016) also found that partnered gay men are 7 per cent less likely to be in full-time work, whereas partnered lesbians are 27 per cent more likely to be in full-time work. In the case of non-partnered lesbians, this however changes as single lesbians are 9 per cent less likely to be in full-time employment compared to their heterosexual counterparts (Valfort, 2017). The opposite is the case for single gay men who are 1 per cent less likely to be in full-time work compared to single heterosexual men (Valfort, 2017). Valfort’s (2017) review also found that in comparison to bisexual males (5 per cent), female bisexuals experience an employment penalty of 11 per cent. Carpenter, Eppink, and Gonzales (2016, in Valfort, 2017) reported that transgender people are 9 per cent less likely to be employed in comparison to cisgender people. Transwomen in particular were 25 per cent less likely to be employed in comparison to cisgender women.

When identifying an occupation, LGBTI people are often pigeonholed into specific sectors such as entertainment, administration, hospitality and healthcare, i.e. sectors with a high female workforce (ILO, 2013). ILO research found that LGBTI people have “been refused jobs because of their sexual orientation – in some cases in an explicit manner during a job interview” (ILO, 2013). Prejudice and discrimination encountered at this stage of the employment cycle pushes

LGBTI people into the informal economy, where they have little or no rights or protections.

In some cases, the gig economy can offer a solution to LGBTI people, as they are less likely to be discriminated when they need not interact with their employer, colleagues and customers in person or on a daily basis. However, the option of the gig economy does not work at all times, particularly when LGBTI workers are required to personally interact with employers, colleagues and/or clients. This may make them more vulnerable to discrimination, which is then exacerbated by their precarious status.

Career progression and advancement

Studies also show the existence of a “gay glass ceiling”. Sears and Mallory’s (2011) analysis of several surveys measuring employment discrimination against LGBT people in various parts of the United States undertaken in 2005–2010 found that between 10 to 28 per cent of LGBT people reported being denied a promotion or having received negative performance appraisals. Aksoy et al. (2018) not only confirmed these findings for LGB people in the United Kingdom but found that the “gay class ceiling” is more prevalent for non-white gay men. Gay men are 2.2 per cent less likely to be in high managerial and professional occupations, whereas non-white gay men are 7.5 per cent less likely to be in the same posts.

Mobility

More and more employers are requiring their workforce to be mobile and relocate to offices and sites in other countries. Harvey et al. (2011, cited in Gedro et al., 2013) state that “Assembling a diverse global workforce is becoming a critical dimension in gaining successful global performance”. Working abroad offers employees the opportunity to experience a new culture, language and can help with their career progression. Yet migrating as an LGBTI person to a country where same-sex intimacy is illegal, where no SOGIESC-based protection or gender recognition laws are in place, etc., can pose many challenges and be a highly stressful experience. In some cases, LGBTI employees are provided with little or no information concerning LGBTI rights in the country or the attitudes towards LGBTI and must gather their own information from different sources. Julie Gedro, Associate Dean and Professor of Business at SUNY Empire State College, United States, states that “In a career landscape in which it is becoming increasingly helpful for professional development to accept and pursue global or expatriate work assignments...there is not a corresponding proliferation of resources that help sexual minorities to learn how to navigate these opportunities” (Jacobs, 2018). This is particularly concerning when it comes to obtaining information about visas for accompanying spouses and puts additional burden on the employee and their partner not only in terms of finance to travel to visit their partners but in terms of time, too. In many cases, if not in all, these costs are not reimbursed nor is time compensated, as businesses do not have the

right policies in place. This can negatively affect the career development of LGBTI employees.

To bypass these challenges, Gedro et al. (2013) propose that employers must:

1. Be aware of the challenges faced by LGBTI employees when asked to travel or relocate;
2. Understand and appreciate the legal rights of LGBTI people around the globe;
3. Foster an environment of inclusion to ensure LGBTI workers have a sense of belonging both prior to departure and upon arrival in their new host country;
4. Relocate partners and family members with the employee.

The latter raises concerns as it is not always possible to relocate partners and family members when relocation requires requesting visas from countries that may criminalize same-sex intimacy.

Reasonable accommodation

In 2017, the Kochi Metro in Kerala, India, employed 23 trans workers in various positions in an initiative that was praised by the media. Yet within days, 11 of the new recruits quit their positions. Many who decided to leave reported that they were unable to secure reasonable and affordable accommodation because they were trans. Not only was the commute to their homes long and costly, but they were being harassed to and from work. In response to this, Kochi Metro took immediate action to house and home their new recruits so that they could remain in their positions, not travel the long distances required and not be confronted with harassment.

Employers must take into consideration reasonable accommodation provisions and adjustments for trans, non-binary and intersex workers. This can include non-gendered uniform, access to sanitation facilities that are in line with their sex or gender identity and not to have separate facilities specifically for trans and non-binary persons.

Equality of remuneration

A YouGov report showed LGBT+ workers were paid 16 per cent less than their heterosexual colleagues. For trans workers, the pay gap was 14 per cent less, and 49 per cent had experienced judgemental comments from co-workers (Edmonds, 2019).

Analysis of studies focusing on gay men, lesbians, bisexuals, trans and intersex people confirms the idea that LGBTI people are not a homogeneous population and do not experience the same levels of prejudice and discrimination.

A breakdown of studies researching the wage gap between partnered homosexuals and partnered heterosexuals found that partnered gay men face a wage penalty of up to 8 per cent while partnered lesbians had a wage premium of 7 per cent (Valfort, 2017). Trends do show the penalty for partnered gay men to be reducing and the premium for partnered lesbians to be falling. Valfort's (2017) meta-analysis based on 39 studies found that the picture for single gay men remains the same. Single gay men continue to face a wage penalty of up to 10 per cent while single lesbians experience a wage premium of 7 per cent. Valfort (2017) found that wage inequalities for gay men are more prevalent in the public sector. Studies found male bisexuals to have a wage penalty of 12 per cent, while bisexual females experience a wage penalty of 1 per cent (Valfort, 2017). While there is little or no survey-based research on the wage gap of transgender people, Schilt and Wiswall (2008, cited in Valfort 2017) did find that trans people in the United States who transitioned from male to female experience up to 30 per cent decline in their wages. Geijtenbeek and Plug (2015) found similar results based on data from the Netherlands. The hourly wages of trans women decreased by as much as 12 per cent after they transitioned. To take a more intersectional approach and, adding other grounds such as race, provides a more detailed picture. For example, according to Badgett and Schneebaum (2015) partnered African-American lesbians experience particularly high rates of poverty.

Freedom from workplace harassment

A survey commissioned by LinkedIn and conducted by YouGov showed that in 2019 more than one fifth of the LGBT+ workers surveyed in the United Kingdom still reported experiencing verbal abuse, approximately 61 per cent of LGBT+ respondents said that they were made to feel uncomfortable at work and 35 per cent witnessed homophobic behaviour in the workplace. The data also showed that approximately 25 per cent of LGBT+ respondents had not disclosed their sexuality at work, which can be explained by the high levels of prejudice LGBT+ respondents reported (Edmonds, 2019). Of those who had not disclosed their sexuality at work, 28 per cent stated that this was due to fear of judgement by their co-workers, while 14 per cent feared that disclosing their sexuality would hinder their possibilities of a promotion (HuffPost UK, 2 July 2019). Of those not out in the workplace, 47 per cent did not plan to share their sexuality with their co-workers (Edmonds, 2019).

Not all of this comes as a surprise as data report that homophobic and transphobic crimes in England and Wales have doubled since 2014 (Marsh et al., 2019). Analysis of hate crimes in England and Wales showed that the rate of LGBT hate crime per capita rose by 144 per cent between 2013–14 and 2017–18, whereas transphobic crimes have more than trebled from 550 reported cases to 1,650 between 2013–2014 and 2017–2018 (Marsh et al., 2019). Over 46 per

cent of these crimes took place in 2017–2018 alone (Marsh et al., 2019). This rise can be partially explained by better awareness and reporting by survivors. Having experienced violence and discrimination even before entering the labour market, many LGBTIQ+, in particular trans, gender non-conforming and intersex people suffer from high levels of trauma. Hate crimes will have a negative impact on the mental and physical health and well-being of survivors that can have subsequent negative effects on their ability to work and lead to economic loss, pushing LGBTIQ+ people further into poverty. To ensure the full participation of LGBTIQ+ persons, workplaces need to ensure that they have effective mental health policies and are able to provide support or assistance for trauma. This also highlights the need for governments and employers to provide better healthcare coverage for LGBTIQ+ workers. This is particularly important when data report that LGB men and women are twice as likely to be uninsured for medical health insurance (Charlton et al., 2018).

Other factors influencing the future of work for LGBTI people

Education

Education is a fundamental right for all and a key factor for acquiring skills for gainful employment. Weak education systems affect both the social and economic development of countries and the development of children and youth. This is exacerbated for children and youth already living in poverty, particularly those in rural communities; some are forced to drop out due to a lack of an inclusive education (UNESCO, 2016).

Research has found that bullying can have a negative impact on a child's education (Oliveira et al., 2018), and consequently, low or poor education can exacerbate unemployment (van Zon et al., 2017). School-based bullying of LGBTI youth not only has an immediate negative short-term impact but also long-term effects well into adulthood. Adults who have been victims of school-based bullying with regard to their sexual orientation, gender identity and expression, and sex characteristics, are more likely to suffer depression, attempt suicide, engage in substance and alcohol abuse, and in sexual risk behaviours which can lead to sexually transmitted infection including HIV (Boroughs, 2017; Frances McClelland Institute for Children, Youth, and Families, 2013). This in turn can hinder an LGBTI person's ability to find gainful employment, remain in employment or be productive (ILO, 2013).

Legal gender recognition

National identity papers which permit a modification of gender markers would be helpful, so not all trans and intersex persons are outed at work. Not having access to legal gender recognition creates further challenges for trans persons to enter the formal economy, consequently forcing them into the informal economy where they are more susceptible to discrimination, violence and harassment.

Conclusion

Despite international laws, guidelines and principles protecting LGBTI people in the workplace, LGBTI people still face high levels of discrimination and violence throughout the employment cycle. While research and data collection have increased over the years, there are still large gaps in knowledge. As most of the research focuses on countries in North America and Europe, more studies are needed to identify the extent of discrimination and how it manifests in countries where same-sex intimacy is criminalized and legal gender-recognition laws do not exist. What is clear is that a universal labour guarantee alone is not enough to ensure that LGBTI people obtain gainful and decent employment. Further measures will be needed to ensure the equal treatment of LGBTI workers, as well as a workplace free from violence and harassment. Laws alone are not sufficient to ensure the promotion of LGBTI rights, and although efforts by employers and business to promote diversity and inclusion exist, more actions and measures are essential to help reach this goal. National employment programmes and policies need to be better designed to ensure that LGBTI workers are able to fully participate in the labour market with equal treatment.

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► Ageing in diverse societies

Ruxandra Oana Ciobanu

Introduction

This chapter brings together two topics of utmost scientific, societal and political relevance: international migration and population ageing. Recent statistics underline the importance of these topics in Europe, but also in other parts of the world. The population of international migrants worldwide has increased by 41.6 per cent from 2005 to 2019 (UN, 2019). In the same period, the population of persons aged 65 and over also has increased, by 53 per cent (UN, 2019). At the intersection of these two groups is the population of migrants aged over 65, which has been increasing throughout Europe (Ciobanu, Fokkema, and Nedelcu, 2017; Warnes et al., 2004).

The objective of this chapter is to discuss in depth the diversity of these three populations: older persons, migrants and older migrants, and thereby to acknowledge that societies are growing increasingly diverse and that ageing in this context poses new challenges (Ciobanu, 2019). These challenges need to be studied in order to expand the knowledge base in several fields of research, and inform policies (Ciobanu, Fokkema, and Nedelcu, 2017). The chapter starts by providing data on older migrants in European countries. The rest of the chapter is organized in three parts. The first part gives an overview of the literature and, based on this, discusses different categories of older migrants, and the internal heterogeneity within each of these groups. The second part focuses on the implications that this diversity in old age has at different levels, and for the social support system, and finally, the conclusion briefly proposes some future lines of research.

A quantitative overview of older migrants in Europe

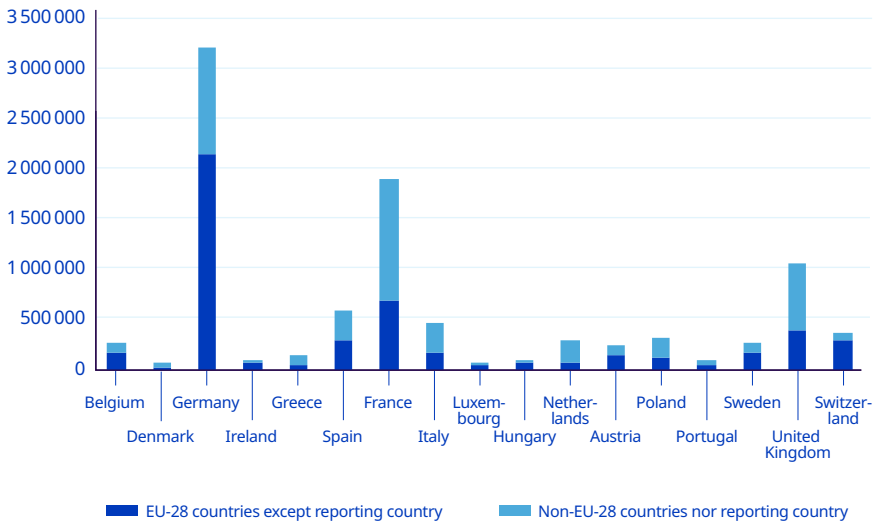
The share of older foreign-born people (65+) in the total population over 65 differs greatly from one country to another. In 2019, it was as high as 53.3 per cent for Liechtenstein, 37.9 per cent for Luxembourg and reached 22.5 per cent in Switzerland. However, it is not as high throughout Europe, showing large variability: Germany (17.8 per cent¹), France (14 per cent), Austria (13.7 per cent),

¹ It is important to note that the data show “foreign-born” and in Germany there was a return migration of “ethnic Germans” who were, however, born outside Germany and therefore are included in this data.

Sweden (13.2 per cent), Belgium (12.4 per cent), Ireland (10.7 per cent), the Netherlands (8.6 per cent), the United Kingdom (8.5 per cent), Spain (6.5 per cent), Greece (6 per cent) and Portugal (4.4 per cent). The intra-European disparities are indicators of differences in migrant groups and flows across countries, and the ageing of the migrant population. What is essential for the study of older migrants is that this is a population which has been steadily increasing. From 2010 to 2019, there were significant increases in several European countries: 148.8 per cent in Ireland, 138.6 per cent in Portugal, 128.8 per cent in Luxembourg, 82.5 per cent in Finland (where only 1.7 per cent of the population aged over 65 was foreign-born in 2019), 79.2 per cent in Norway, 69.8 per cent in Iceland, 68.1 per cent in Spain, 58.6 per cent in Italy, 53.3 per cent in Liechtenstein, 52.6 per cent in Greece, 45.6 per cent in the Netherlands, 37.7 per cent in Sweden, 33.6 per cent in France, 33.4 per cent in Belgium, 28.7 per cent in Austria and 26.6 per cent in Switzerland.

The following figures underline the increase in the older migrant population, and also show that within the population of older migrants there are several sub-groups, and that these sub-groups are increasing at different rates, thus contributing to diversity.

► **Figure 1. Foreign-born population aged 65+ from EU-28 countries and non-EU-28 countries in 2019**



Source: Eurostat, Table “Population on 1 January by age group, sex and country of birth” [migr_pop3ctb], calculations by the author.

Looking more closely at the increase in the number of EU-28 and non-EU-28 nationals aged over 65 in European countries, we notice that there are very different patterns.

Table 1 below shows that in some countries EU-28 migrants aged 65+ clearly predominate. These are Luxembourg (87.1 per cent), Ireland (82 per cent) and Switzerland (80.3 per cent). Other countries show a contrary situation with a much higher concentration of non-EU-28 migrants: Croatia (91.5 per cent), Greece (78.8 per cent), the Netherlands (78.5 per cent), Italy (66.5 per cent), Portugal (66 per cent), and France (63.9 per cent). The increases, particularly in Croatia and Greece, need to be understood in the context of the recent arrivals of refugees from the Syrian Arab Republic, and to a lesser extent as a historical migration trend.

► **Table 1. Percentage of EU-28 nationals and non-EU-28 nationals in the total migrant population aged 65+ in 2019**

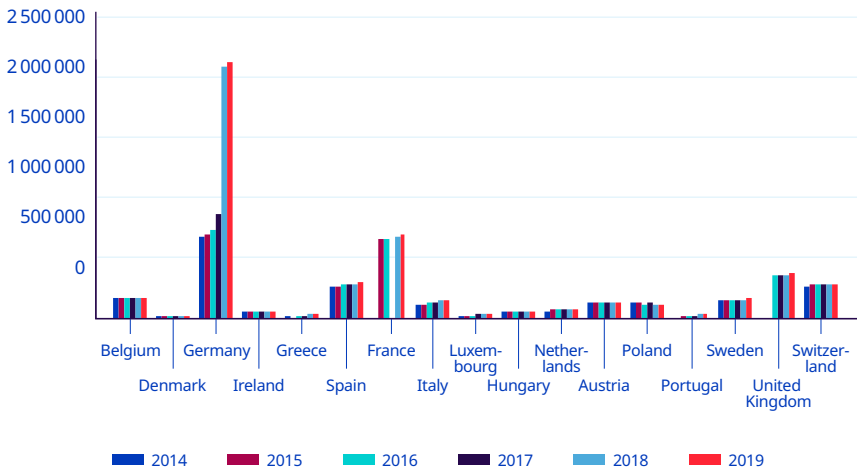
Country of destination	Percentage of EU-28 nationals in total migrant population aged 65+	Percentage of non-EU-28 nationals in total migrant population aged 65+
Austria	59.2	40.8
Belgium	64.5	35.5
Croatia	8.5	91.5
France	36.1	63.9
Germany	66.5	33.5
Greece	21.2	78.8
Hungary	70.7	29.3
Ireland	82.0	18.0
Italy	33.5	66.5
Luxembourg	87.1	12.9
Netherlands	24.5	78.5
Poland	34.7	65.3
Portugal	34.0	66.0
Spain	49.0	51.0
Sweden	59.2	40.8
Switzerland	80.3	19.7
United Kingdom	36.0	64.0

Source: Eurostat, Table “Population on 1 January by age group, sex and country of birth” [migr_pop3ctb], calculations by the author.

Figures 2 and 3 below show very different patterns across European countries concerning the evolution from 2014 to 2019 in EU and non-EU migrants. In Belgium, Ireland, Hungary, Luxembourg and Switzerland the stock of foreign-born residents from other EU countries is larger than that of non-EU migrants. Luxembourg is a particular case, where the group of non-EU-28 nationals dropped by 17 per cent between 2014 and 2017, followed by an increase in 2019. Meanwhile, the group of EU nationals has grown 42.2 per cent from 2014 to 2019. On the other hand, even if in Belgium there is a large number of EU nationals overall, the increase in non-EU nationals from 2014 to 2019 was of 40.9 per cent, whereas that of EU nationals was only of 7.5 per cent. Similarly, in Switzerland, among EU nationals there was an increase of 5.66 per cent, and among non-EU nationals of 64.6 per cent. In other countries such as Croatia, Estonia, France, Italy, the Netherlands and Poland, the number of non-EU-28 nationals is higher. Among those countries, Poland is the only case where this number is decreasing (see figure 3).

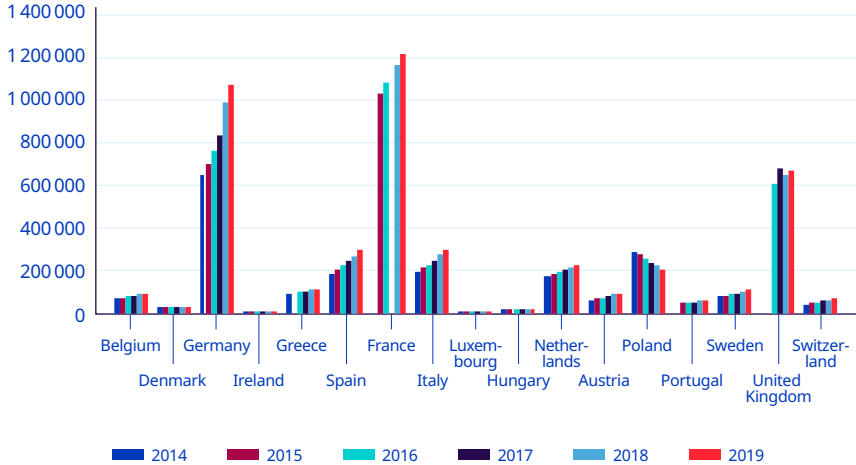
All these figures demonstrate that there is a general increase in this population, and also an increase in the diversity of older migrant populations.

► **Figure 2. Evolution of the foreign-born population aged 65+ from EU-28 countries from 2014 to 2019**



Source: Eurostat, Table “Population on 1 January by age group, sex and country of birth” [migr_pop3ctb], calculations by the author.

► **Figure 3. Evolution of the foreign-born population aged 65+ from non-EU-28 countries from 2014 to 2019**



Source: Eurostat, Table 'Population on 1 January by age group, sex and country of birth' [migr_pop3ctb], calculations by the author.

The diversity of older migrants: One among many in the old-age environment

Diversity in society is driven by several factors, and migration constitutes one of the most important sources. Over the years, we have witnessed a diversification of the countries of origin of migrants and the types of migration: permanent, temporary, return, transnational, step-by-step and multiple migrations (Ciobanu, 2015). This marks a heterogeneity of situations in which migration is manifested. The migrant populations that arrived in European countries such as Belgium, France, Germany and Switzerland as "guest workers" from the 1950s through to the mid-1970s are long retired (Bolzman et al., 2004), and even some of their children are reaching retirement. In addition to this group, more and more people migrate close to or after retirement, contributing to the increase in the older migrant population and the heterogeneity of this group (Nedelcu, 2009; Nedelcu and Wyss, 2016). In this part, I will draw on the existing literature and my current research to draw as complete as possible a picture of the diverse types of older migrants.

The first typology of older migrants arises from one of the pioneer studies in this area (Wiseman and Roseman, 1979), which focused on internal migration in the United States. More recently, Warnes et al. (2004) have produced a

comprehensive typology of older migrants in Europe. Other authors have proposed classifications for particular migrant groups. For example, Benson (2010) distinguishes between different categories of British international retirement migrants in France, depending on their position in the life course at the time of migration. All these show that older migrants do not exist as a homogenous group, that there are different categories of older migrants, and that there is a lot of internal diversity within the groups (Ciobanu, Fokkema, and Nedelcu, 2017; Dwyer and Papadimitriou, 2006). Such internal variability needs to take into account age groups; that is “the young old”, “the old” and “the oldest old”, as well as gender (Liversage and Mirdal, 2017).

For the purpose of this chapter, I take as a starting point the classification provided by Warnes and his colleagues (2004), which underlines that older migrants are a highly heterogeneous population. They distinguish and describe four categories of older migrants in the European context (see also Ciobanu and Hunter, 2017, p. 3):

1. Amenity-seeking international retirement migrants (AIRM): those who migrate at an advanced age from the North to the South of Europe;
2. Older European international labour migrants (ELM) and older non-European international labour migrants (NELM): those who have “aged in place” following their arrival in Europe after the Second World War;
3. Directly linked to the previous group are return labour migrants: post-Second World War labour migrants who choose to spend their retirement in the country of origin, e.g. Spain, Italy or Ireland (see also Rodríguez, Egea, and Nieto, 2002);
4. Family-oriented international retirement migrants (FIRM): those who migrate later in life to be closer to younger family members: e.g. Germans, British and Dutch who migrate to other parts of Europe or to the United States to join their adult children.

Building on this typology, I propose to go into more depth, and further develop these categories and discuss other migrant groups and flows. For this, I take into account, in greater detail, historical migration flows and the evolution of migration over the last decade in the context of the socio-economic and “migration” crisis in Europe and beyond.

International retirement migrants

The AIRM, according to Warnes and colleagues (2004), also called international retirement migrants, “sunset migrants” (King, Warnes, and Williams, 2000) or lifestyle migrants (Benson and O’Reilly, 2009) is a highly dynamic category which has hugely evolved over the past decades. Initially, it referred to those who become migrants after retirement in search of better weather conditions.

The first flows, which received extensive attention in the literature, were from Northern Europe (e.g. Germany, the Netherlands, the United Kingdom) to the South of Europe, initially southern France (Benson, 2010) and Italy, then Spain and Portugal (King, Warnes, and Williams, 1998). More recently, there have been flows towards Croatia, Bulgaria and Turkey (King, Cela, and Fokkema, 2021), and further afield to Thailand (Botterill, 2017) and other destinations. Sometimes these flows are associated with previous counter-flows from these countries towards Western Europe. In other words, there were flows of Spanish workers towards the Netherlands, and later on, a reasonably feeble return migration was recorded among these nationals. In parallel, Western retirees discovered the guest workers' origin countries as new destinations for themselves (Gehring, 2017). While there is a diversification of countries of destination, with new ones emerging, there are also more and more countries of origin of sunset migrants. Older Swiss and Dutch choose to spend their retirement in Northern Africa (Bolzman et al., 2021). Also, initially this migration stayed within Europe. Recently, there has been an expansion of migration towards Asia. In the North American context, migrants from Canada and the United States, also known as "snowbirds", choose either to spend periods of the year in Florida or Central and South America or to permanently relocate there (Coates, Healy, and Morrison, 2002; McLeman and Hunter, 2010; Smith and House, 2006).

Furthermore, these flows were considered to be homogeneous: elderly well-off Northern Europeans who choose to migrate to make the most of their retirement (Warnes et al., 2004). This is no longer the case as, increasingly, people who cannot make ends meet in their countries of nationality and residence opt to migrate in order to make their pensions run longer (Botterill 2017; Repetti, Phillipson, and Calasanti, 2018).

In parallel, another group of post-retirement migrants has recently emerged, namely people who go abroad for medical and long-term care. The externalization of long-term care is increasingly being discussed in Europe (Schwiter, Brüttsch, and Pratt, 2020). In Poland, there are nursing homes for elderly Germans, and in Thailand nursing homes cater particularly to people suffering from dementia and other cognitive diseases, with research focusing so far on older Europeans (Bender and Schweppe, 2019; Horn et al., 2016).

"Grandparents" constitute another group that migrates close to retirement age or after retirement. Until recently, this group used not to be deemed a particularly mobile segment of the population. Instead, it has sometimes attracted a negative image as those "left behind" or "orphan grandparents" (King and Vullnetari, 2006). These ageing, retired people are usually considered to be passive, non-migrant receivers of care within various transnational family arrangements (Baldassar, 2007). Yet, other researchers portray "grandparents" as a group that has agency and has become a key actor in "making family" in transnational contexts. Nedelcu (2009), building on the idea of generations of

migrants (where those who made the decision to migrate are labelled the “first generation”, their descendants the “second generation” and so on), coined the category of “zero-generation migrants” to denote grandparents who engage in short and long-term migration. This is a particular category of the ageing population that becomes increasingly mobile, mostly after retirement, although it remains quasi-invisible in international migration studies: the migrants’ parents. They become migrants to help their children who are labour migrants, more particularly to take care of their grandchildren.

Nedelcu and Wyss (2016) present a series of situations and mobility patterns depending on migration and care regimes in the countries of origin and of destination. This group could be subsumed under “family-oriented international retirement migrants” (Warnes et al., 2004), yet this migrant category as such remains a broad and loose category, with little potential for analysis. On the contrary, the concept of “zero generation” (Nedelcu, 2009) captures agency as well as a structural approach taking into account variables at micro, meso and macro level: individual preferences and resources, family expectations and norms, and the sending and receiving context, more particularly migration and care regimes (Ciobanu, Fokkema, and Nedelcu, 2017; Nedelcu and Wyss, 2016).

This shows that within a rather small category – the populations of retirement age – and moreover in a population that has not experienced international migration up to that age, there are diverse types of migration, reasons for migrating, and countries of origin and destination.

International labour migrants

Another category that deserves more in-depth scrutiny is the one comprising former international labour migrants who have aged in place. Warnes et al. (2004) distinguish between European and non-European, and indeed this marks differences in terms of rights of residence, possibilities to develop transnational ties, rights to access various social benefits, and so on (Böcker and Hunter, 2017). Other nuances can be introduced in this category when taking into account former colonial ties. For example, people from the former Portuguese colonies who arrived in Portugal following the fall of the dictatorship in 1974 were able to obtain citizenship easily, but on the other hand faced racial discrimination due to their African descent (Marques and Ciobanu, 2012).

Some categories that come to accentuate the diversity of older migrants, and which are missing from the typology of Warnes and his colleagues (2004) include: older refugees, former employees of international organizations and the diplomatic field, late-in-life labour migrants and people who have experienced multiple migrations.

Older refugees

Older refugees constitute a category on the rise (Bolzman, 2014). On the one hand, there are those who, in the 1970s and 1980s, left either Latin America or Eastern Europe for North America and Western Europe in a context of little immigration, when refugees from certain political contexts were welcome. Often, they were soon granted refugee status and the right to work, which afforded the possibility to integrate and contribute to the host society (Ciobanu and Bolzman 2019; Ciobanu and Fokkema 2017). Furthermore, having migrated at a young enough age, they could contribute to the social security systems in the host country and thus benefit today from retirement pensions. On the other hand, more recent flows from Afghanistan, Iraq, Somalia and the Syrian Arab Republic, among other countries, are far more restrictive and refugees are “trapped” in long procedures that deprive them of the possibility to project themselves in the long term, particularly if they arrive at near-retirement age.

Former employees of international organizations and the diplomatic field

This category, comprising people who are ageing in place, has received scarce attention (Bolzman, 2013). They have experienced international migration, yet in a privileged space. They have often travelled abroad with their family and spent long periods of their life in one or several countries, their children have most often attended international schools, they sometimes did not have to and did not learn the language of their place of destination and have not integrated the communities and society of final settlement. Their children sometimes went on to study in North American universities and live in English-speaking countries. Retirement brings about major upheaval in the life of some of these people since, depending on their nationality, they lose the right to reside in the country of their last duty station. They have not lived in their country of origin for long periods of time and might have even lost contacts. This international elite can thus find itself destabilized.

Late-in-life labour migrants

A category that has recently emerged, particularly in the context of the economic crisis, comprises late-in-life labour migrants (Escrivà and Vianello, 2016). Although not a large migrant group, it deserves more attention because of the particularly vulnerable situation of these people. Confronted by unemployment late in life or by difficult situations on the labour market in their home country, people from Eastern Europe, Latin America but also from Southern Europe are faced with undertaking migration in their late 40s and 50s. They sometimes follow existing national communities abroad and are helped within networks

to access the labour market in the country of destination, yet migration late in life, a change of socio-economic and professional status, the effort required to adapt and integrate a new country can be challenging.

These categories are not mutually exclusive, and some people can find themselves in several categories, either at different moments of their life or simultaneously. One aspect of which migration scholars have taken little account, let alone in the specific area of older migrants, is *multiple migrations*. Too often migration is portrayed as the move between country A, origin country, to country B, destination country. Little consideration has been given to the fact that after a few years, persons can decide to move to country C or return to country A and then migrate to country D. Only recently has the literature coined concepts such as multiple migration, liquid migration (Engbersen, Snell, and de Bloom, 2010), incomplete migration (Okolski, 2001) and free movers (Favell, 2008), among others (for an overview see Ciobanu, 2015). These situations can of course be found among older migrants. Such people often lead transnational lives, as they go back and forth to visit their children and grandchildren settled in some former country of destination. They can be placed on a continuum from well-off persons, who make the most of their right to travel, and the increased facility to have a transnational life, to less affluent persons who, via their transnational livelihoods, access resources in different locations in order to overcome difficulties.

The research attention from which these groups have benefited differs greatly. Among the groups that have received most attention are international retirement migrants (Benson and O'Reilly, 2009; Benson, 2010; King, Warnes, and Williams, 1998, 2000), and older international labour migrants (Bolzman et al., 2004; Hunter, 2018). Less attention has been given to former refugees (Ciobanu and Fokkema, 2017) and late-in-life labour migrants (Escrivà and Vianello, 2016). Yet generally, research on older migrants has been a growing field in recent years (Ciobanu, Fokkema, and Nedelcu, 2017; Ciobanu and Hunter, 2017; Horn and Schweppe, 2016; Schwiter, Brütsch, and Pratt, 2020).

What are the implications of diversity in old age?

This chapter has discussed various categories of older migrants. To add to this complexity, older migrants fall under different immigration categories in the country of destination and may have a labour-market participation fragmented between one, two or more countries and, accordingly, may have pensions from one or more countries. Finally, their place of residence may be in the country of destination, in the country of origin, following a return migration and/or they may engage in transnational migration, living periods of the year in different countries. This adds to the complexity of categorizing older migrants and

discussing the implications that the diversity in this population can have on the organization of social welfare for old age (Böcker and Hunter, 2017; Warnes et al., 2004).

The chapter has focused only on the diversity within the group of older migrants. Yet the environment of old age is complex and comprises numerous actors and elements, some of them also characterized by diversity. One of the most important components of the old-age environment is care provision. This consists of emotional and moral support, practical administrative or everyday support, as well as physical, hands-on care (Finch and Mason, 1993), and finally specialized medical care. In this environment, several actors intersect to exchange and provide care for the elderly. There are public, private and third-sector institutions, as well as informal actors including the family, friends and neighbours. Also, old-age care can be provided either at home or in an institutionalized setting. At a micro level, the actors in this environment are formal and informal care providers and one's social support network. Globalization and associated to it, the increase in diversity, manifest themselves in the environment of old age. Demographic ageing in Western Europe and North America is putting pressure on the medical and social support systems, which have to attract migrant workers to satisfy increasing care needs. Consequently, in today's ageing societies, there are situations where an older Indian in a nursing home in Manchester, United Kingdom, will be cared for by a young Polish migrant. Or an elderly Swiss German will be cared for informally at home by a Romanian migrant care worker (Schwiter, Berndt, and Truong, 2018).

One more layer of diversity is added by the geography of social networks. Increasingly, older people have ties that are not located in the place where they reside, but in other cities and even other countries. This is the case for older people's children, and also others in their social support network who live in the home country or in third countries. This increases the diversity of situations to be found in old age.

These diversities have implications for the everyday life of older people, and for the organization of care provision. At an individual level, older people with or without a migration background are becoming more open to engaging in mobility late in life, they travel to be closer to their family to receive and provide care. In the interaction with formal institutionalized care, there is increasing awareness that older people have a variety of backgrounds, and care providers and services need to be sensitive to this diversity (Ciobanu, 2019). Simultaneously, it is difficult if not impossible to address each and every form of diversity. Rather, we can speak about diversity-sensitive programmes and services (Soom Ammann and van Holten, 2016). Boccagni (2015) argues that while it is necessary to develop a multidimensional approach to address the need for old-age care services, the implementation of a super-diversity perspective in social work is extremely challenging.

Conclusion

This chapter has shown that there is a clear lack of literature looking at the implications of the diversity of older persons, and the implications this has for old-age services. So far, the literature has only touched upon certain national groups in different countries of destination: Italians in Switzerland (Soom Ammann and van Holten, 2016) or Moroccans and Turks in the Netherlands (Klok et al., 2017). Access to care and care preferences are studied for older migrants and compared sometimes with that of nationals (Bolzman and Vagni, 2017; Valk and Schans, 2008). More attention needs to be paid to the systematic study of the diversity of older migrants and its repercussions both for the meso level, neighbourhoods and associations, and for the macro level, such as the organization of care provision. Simultaneously, there is a general need for theoretical developments in this field (Phillipson, 2015; Torres, 2015) to assist with the elaboration of policies and programmes at macro and meso level, acknowledging the diversity of older migrants.

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Part



3 Discrimination and violence that impede diversity

► “You think you’re ‘one of the boys’ but you never really are”: The impact of discriminatory violence on the retention of women in the construction industry in Quebec

Laurence Hamel-Roy and Élise Dumont-Lagacé¹

Introduction

Through the support services it provides, *Action travail des femmes* (ATF, Action on Women’s Work)² meets with women working in the construction sector who are experiencing serious situations of discrimination and harassment. Many of them have been victims of sexist or sexual violence. The complexity, magnitude and severity of their plight, and its impact on women’s ability to maintain employment in construction trades they have consciously chosen and enjoy, calls for efforts to understand the factors explaining how this violence is related to the phenomenon of women leaving the construction industry. The project *Maintien et droits des travailleuses dans le secteur de la construction: Intervenir pour contrer le harcèlement, les violences discriminatoires et systémiques* (Retention and rights of women working in the construction sector: Confronting harassment and discriminatory and systemic violence)³ meets this specific need. This chapter presents the results of the field study conducted in the first phase of the project to establish a typology of sexist and sexual violence affecting the retention of women in the construction trade.

1 With the collaboration of Sophie Coulombe. The authors thank the workers, direction and board members of *Action travail des femmes* for their support and contribution.

2 Founded in 1976, ATF is an independent not-for-profit organization working in the province of Quebec (Canada) to support socio-economically disadvantaged women of all ages and origins in their efforts to access decent jobs, particularly in non-traditional fields. To this end, ATF intervenes to ensure that effective measures are put in place and that human rights legislation is improved by duly taking into account discrimination against women.

3 This project was funded by the Ministry of Women and Gender Equality (previously the Ministry of the Status of Women Canada). Led by ATF, the project aims to develop innovative interventions and make recommendations for improving the legal framework to promote the retention of women in the construction industry in Quebec. The project targets the conditions in which women work; it does not deal with challenges related to integrating new women into the sector, to promoting trades or diversifying women’s professional options. Rather, it focuses on being free from systemic discrimination and sexist and sexual violence and harassment as a matter of fundamental rights, a perspective ATF has held since its foundation.

The structure of this chapter is as follows: First, we briefly describe the situation of women in the construction industry in Quebec (Canada). In a second section, we present our research methodology and the typology used to classify and structure the various types of sexist and sexual violence according to their impact on the retention of women workers in this sector. The final part of the chapter presents the findings that emerge from this typology with regard, first, to the relationship between the organization of the industry and the spread of sexist and sexual violence, and second, to a form of “hypervisibility/invisibility” engendered by the lack of interventions that duly take into account the actual extent of sexism in this sector, its foundations and discriminatory effects, and its alignment with the particular way the industry functions.

Women in the construction industry in Quebec

Statistical profile

The construction industry is recognized as being “among the last bastions of masculinity in the labour market” (Dugré, 2006, p. 59). Data from the *Commission de la construction du Québec* (CCQ, Construction Commission of Quebec) reveals that women comprise just 1.91 per cent (3,002 women) of the workforce practising a trade or holding an occupation in the construction sector in 2017, a participation rate far below the 3 per cent goal set for 2018 by the most recent *Programme d'accès à l'égalité pour les femmes*, PAEF 2015–2021 (Equal Access to Employment Program for Women, EAEP 2015–2021) (CCQ, 2018, p.1).⁴ Even this percentage must be viewed with caution, as it includes all women having worked at least one hour in the past year on worksites covered by Act R-20. The average number of hours worked by women on building sites was, in 2017, only 71 per cent of the average hours for men (671 versus 948 hours) (CCQ, 2018, p. 8).

4 This target was set by the CCQ and more than 10 ministries, public organizations, professional development centres as well as the *Association paritaire pour la santé et la sécurité du travail du secteur de la construction* (Joint Health and Safety Association for the Construction Industry) that supported the adoption in 2015 of the PAEF 2015–2024 (CCQ, 2015). We should stress that women’s presence in the construction industry remains highly segregated. In some trades – masonry, metalworking, refrigeration, industrial mechanics – women represent less than 0.5 per cent of workers, and they are absent among heavy machinery mechanics. In contrast women make up 15 per cent of painters (CCQ, 2018), which reveals a tendency whereby “women on construction sites are pushed into a few trades, mostly related to finishing and decorating tasks, that require attention to detail and a sense of aesthetics, which are qualities traditionally attributed to women.” (Dumont, Pelletier, and Desbiens, 2013, p. 6). Quebec figures poorly when compared to other Canadian provinces. The latest comparative statistics, dating from 2011, show that the average representation of women in the construction sector is 3.1 per cent; women represent 4.7 per cent of the construction workforce in Alberta, 4.1 per cent in Saskatchewan and 3.7 per cent in British Columbia (CCQ, 2014, p. 4).

A large proportion of women therefore also practice professions similar to their trade, but in industries other than construction (manufacturing, transport and warehousing, for example), on sites not covered by Act R-20⁵ (CCQ, 2014, p. 5), or in forms of employment that do not fully protect their rights as workers (labour-for-hire monitored agencies, self-employment, “*entreprises chaudrons*”⁶ and under-the-table work). As professional advancement is based on cumulative declared hours, women thus retain apprentice status for a longer period than men – with the associated salary differences (Dumont, Pelletier, and Desbiens, 2013, p. 29). While 58 per cent of male workers hold the trade certification of “journeyperson”, only 23 per cent of women do (CCQ, 2018, p. 4).

The entry of new women workers into the sector has nevertheless progressed somewhat since the first PAEF introduced in 1997, a sign that the measures implemented were effective at attracting more women to the construction industry (Danvoye, 2007). In 2017, the CCQ registered a record 6.9 per cent women among new entrants (757 women)⁷ (CCQ, 2018, p. 3); the medium- and long-term effects of this increase should be monitored closely. There appears to be a significant female exodus at hand: nearly 56 per cent of women leave the industry after five years, compared to 35 per cent of men, and women’s departures would seem to be more definitive (CCQ, 2018, p. 10).⁸

5 The *Loi sur les relations de travail, la formation professionnelle et la gestion de la main-d’œuvre dans l’industrie de la construction (loi R-20)* (Act respecting labour relations, vocational training and workforce management in the construction industry, or Act R-20) frames construction work and the working relations of all workers and employers. Unregulated work is not subject to the regulations under the Act (which include collective agreements that set remuneration, benefits, etc.), and is among the exceptions to the laws that apply, for example, to some construction work undertaken in the municipal sector, in mining or in some residential renovation work.

6 “*Chaudron*” is an expression used in the construction industry to refer to employers who, as explained by André Chartrand, then President of the *Conseil provincial du Québec des métiers de la construction (International)* (Quebec Provincial Council of building trades (International)), during a hearing of the *Commission permanente du travail, de la main-d’œuvre et de la sécurité du revenu* (Permanent Commission on work, manpower and income security) in 1982: “[...] engage in poaching by regularly violating the law, neglecting worksite safety, failing to report hours worked and salaries, etc.” *Québec. Assemblée nationale. Journal des débats, 26 (117), 32e Législature, 3e session. 1982, 31 mai.* (Quebec, National Assembly, 32nd legislature, 3rd session, 31 May 1982.)

7 The increase in the proportion of women among new entrants also reflects the drop in the number of new male entrants. From 2003 to 2016, the number of women entering the field each year was, on average, below 400, while the number of men entering the field fell by about 30 per cent over the same period (CCQ, 2018, p. 3).

8 In 2016, the CCQ annual report found that “the gap between the dropout rate at five years between men and women shows a decreasing tendency over the years. However, the narrowing of the gap is not due to improved conditions for women, but rather to deterioration in those of men. The five-year dropout rate for men has increased steadily since 2001” (CCQ, 2016, p. 11).

Particularities of women's experience

While there are relatively few studies looking specifically at women's experience in the construction industry in Quebec (Beeman, 2012; Charest et al., 2017; Cloutier, 2018; Dugré, 2006; Dumont et al., 2013; Legault, 2001), they are unequivocal in recognizing the magnitude and prevalence of sexism experienced by women workers. Using different terms, these studies describe a "worksite culture ... built around masculinity, competition, pride, endurance in difficult conditions, and physical strength" where there is "constant reference to sexuality" in the display of pornographic images, language, jokes and topics of conversation (Dugré, 2006, pp. 59–83). Women workers must deal with manifestations of paternalism or hostility – sometimes the two together despite their apparent contradiction (Charest et al., 2017) – and the burden of their integration rests on women workers' ability to adapt to prevailing norms of machismo and virility (Beeman, 2012; Charest, et al. 2017; Dugré, 2006; Dumont, Pelletier, and Desbiens, 2013). This culture provides fertile ground for the "perpetuation of harassment or intimidation", to the point that these behaviours seem inherent to the sector (Charest et al., 2017, p. 68). When it targets women, this misconduct is associated with a collection of stereotypes that serve to offend, denigrate, humiliate and delegitimize women workers,⁹ or to assume their sexual availability.¹⁰ The violence experienced by women is minimized by those in a position to intervene, creating situations where "the fundamental rights of women workers are too often disrespected" (Dumont, Pelletier, and Desbiens, 2013, p. 85).

9 It would be futile here to provide an exhaustive view of these behaviours as they appear infinite in the studies mentioned earlier: insinuations of incompetence, assignment to domestic tasks, refusal to integrate them into teams, reference to violence against women, denial of authority, sabotage of their work, testing: all are behaviours that serve to reproduce and consolidate sexism and misogyny.

10 Sexual harassment can manifest as "unwanted physical contact such as touching, pinching, bumping into or brushing against the victim, soliciting sexual favours, making inappropriate sexual comments or comments on the victim's body or appearance, jokes that denigrate the victim's sexual identity or orientation, intimate questions, intrusive looks, notably at a victim's sexual parts, catcalling or displaying pornographic images" (*Commission des normes, de l'équité et de la santé et sécurité au travail* (CNESST)). The quantitative sections of studies by Charest et al. (2017) and by Cloutier (2018) show that women in the construction sector are much more likely than their male colleagues to suffer from sexual harassment.

Women workers regularly suffer direct and indirect discrimination in hiring by employers who unabashedly refuse to run mixed crews:¹¹ because they are women, they "do not benefit from a presumption of competence when they are hired, unlike male workers. But the prejudices go beyond questions of competence, as though the very presence of women would create problems, and women pay the price of male workers' inability to maintain proper working relationships with women (Beeman, 2012, p. 74). At a "statistical disadvantage" (Dumont, Pelletier, and Desbiens, 2013, p. 61), women workers face the effects of isolation combined with high visibility; they find themselves in "a narrow hallway" (Legault, 2001) where the possibilities and modalities for responding to misconduct at their expense are negotiated. This means they must often "overlook", or at least cleverly defuse situations that arise to prevent them from escalating (Dugré, 2006). There is a clear tendency for women to leave a worksite rather than make a complaint (Dumont, Pelletier, and Desbiens, 2013).

The effects of discriminatory practices are exacerbated by the manner in which work is organized in the industry, where contracts are often short-term and continued or interrupted according to site needs:¹² productivity pressure and the structural instability of work are factors that catalyse intimidation and harassment in the industry (Charest et al., 2017). In a context where business relations prevail over seniority, the continual movement of the workforce puts workers in competition with each other to obtain contracts, a game that puts women workers at a disadvantage while also impeding their ability to meet conditions for eligibility to unemployment insurance¹³ (Rose, 2015; Hamel-Roy and Dumont-Lagacé, forthcoming). There is also a status hierarchy in work contracts, depending on whether or not they are covered by Act R-20. The difficulties women face in gaining access to and achieving stability of their position in the most coveted worksites, despite having the necessary qualifications, suggests

11 The dynamics of worker referral and placement in the industry were addressed in Bill 33, *Loi éliminant le placement syndical et visant l'amélioration du fonctionnement de l'industrie de la construction* (An Act to eliminate union placement and improve the operation of the construction industry), which led in 2013 to reforms to the referral system led by the CCQ. The reference manual put in place aimed primarily to counter intimidation and discrimination based on union affiliation by abolishing union placement, but also sought to promote the hiring of women. However, an analysis by the ATF found that the reference manual instead contributed to exacerbating systemic discrimination against women in the industry (Atif, Dumont-Lagacé, and Hamel-Roy, 2016). It should be mentioned that only 9.1 per cent of employers hired at least one woman in 2017, and most were companies with more than 25 employees (while among companies with fewer than five employees, which predominate within the sector, only 6 per cent hired women) (CCQ, 2018, p. 6).

12 The latest study undertaken by Charest et al. documents the mobility of the workforce: 50 per cent had worked on five or more worksites in the past year and 23 per cent had worked on between three and five sites (2017, p. 39).

13 The programme was renamed "Employment Insurance" (EI) in 1996 reforms with the adoption of Bill C-12 that reflected a new ideology. For that reason, we prefer to use the term "Unemployment Insurance" (UI) here.

that “psychological warfare” (harassment, isolation, resistance) constitutes an informal barrier to work opportunities that “turns off the tap”, thus keeping the environment predictable and exclusive for the dominant group (Legault, 2001).

The CCQ identified discrimination and harassment as the two main reasons for women “dropping out” of the industry (Dupuis and Delagrave, 2008), and it is therefore important to identify and clarify the mechanisms by which these experiences impede the retention of women. In 2013, the Council on the Status of Women (CSF) recognized maintaining women in the construction industry as a key issue to be addressed; otherwise, there was a risk of “reducing to nothing” the gains achieved in traditionally male workplaces, and “reinforcing the belief that (women) don’t belong there” (Dumont, Pelletier, and Desbiens, 2013, p. 19).

Typology of sexist and sexual violence¹⁴

Methodology

The survey, undertaken between January and March 2018, benefited from the participation of 24 women working in construction. Participants, recruited through an announcement circulated on social media, were between 23 and 56 years of age (average age 39) and had worked an average of nine years in the sector. The only criteria for selection were having worked on worksites in Quebec and identifying as a woman; there was no selection bias in favour of women having had negative experience. “Comprehensive” (Kaufman, 2011 [2004]) semi-directed interviews were conducted with each participant individually, lasting an average 1.5 hours. Interviews were recorded with participants’ consent, transcribed, coded using NVivo software and analysed using a grounded theory approach (Strauss and Corbin, 1994; Paillé, 1994). Each participant was given a pseudonym, and information that could be used to identify them (name, occupation, union affiliation, employers) was kept confidential.

Conceptual framework

The study is based on the concept of a “continuum of violence against women” (Kelly, 1987), which considers male violence against women and girls as a transversal experience in women’s lives, regardless of the form, incidence and severity it is attributed. This definition is rooted in the victim’s experience and the control that violence exerts over her life. Applied to the issue of retaining women workers in the construction industry, this approach is of interest as it mobilizes an expansive notion of violence and retains gender specificity. This

¹⁴ The typology presented here is a short version of the one used in the research report, *Typologie des violences sexistes et sexuelles dans l’industrie de la construction et leurs impacts sur le maintien en emploi des femmes* (Hamel-Roy, Dumont-Lagacé, and Coulombe, 2019).

enables a collection of seemingly heterogeneous manifestations to be aggregated based on their gender-specific effects.


The various forms of the experience of violence revealed in participant testimony are structured in a typology in four acts. Each act classifies and differentiates the experience of violence according to the way in which it affects the retention of women workers in the construction industry: (1) the organization and culture of work on worksites; (2) threats and attacks on women's physical and psychological integrity; (3) the precariousness of employment; and (4) the role of institutions. The successive incidence of violence – the sequence of which cannot be understood in a linear or hierarchical perspective but must rather be viewed as cumulative – makes it possible to explore how systemic discrimination against women is sustained and renewed. The concept of a continuum of incidents of violence against women thus leads us to identify and place on the same explanatory axis behaviours that have the effect – through use of force, threat or discomfort – of controlling and exploiting the presence of women in the construction industry in Quebec.

Act 1: The organization and culture of construction-site work

The typology's first act aggregates a number of sexist practices that, without personally targeting individual women workers, create a work environment hostile to their presence. They may appear mundane or trivial but in fact undermine women as a group. Conversations and jokes with sexist or sexual connotations – that promote virility, machismo, misogyny or communicate the idea that women have no place on the site – the display of pornographic images, the non-inclusive nature of the work environment (lack of toilets, inadequate equipment or work schedules based on a "husband-provider/housewife" model) are all informal behaviours and norms that impede women's integration in the workplace. These types of violence can generate discomfort and mistrust, affect feelings of belonging and self-esteem, but can also compromise health and safety, as with ill-adapted equipment.




There are ten guys and a calendar of half-naked women, and I know it's not me ... but the guys look at it, and it's a degrading image of women, and I'm all alone there. How could I not feel humiliated?" (Lysandre)




You have to expect that they'll talk about women. They talk about breasts, butts and the neighbour they slept with, and the other one ... At some point, over the years, it becomes tiresome, hurtful. It bothers me more than the physical work. That whole side of it, over the years, all the vulgar things men say to each other on the worksite. It's hard, as a woman, to hear that sort of talk." (Stéphanie)

The impersonal nature of these expressions of violence makes them difficult to grasp even as they “normalize” the sexism that underpins them. They push women workers to withdraw or even censure themselves.



The guys want overtime, they'd kill their own mothers for it. ... For them, whenever anything comes up, there's the magical housewife who does all boring things so that the guys can focus on the job. As women, we have to think of the kids when we choose our jobs, while guys don't give a damn about their schedule; for them, it's the wife's job to figure out everything else." (Juliette)



Stories where a guy cheats on his girlfriend or a guy is disrespectful to women, some girls would be uncomfortable with that, given that they're women. It doesn't bother me. I don't feel like I represent all women. I'm doing something I like, so I don't feel the need to say 'you're treating women badly, don't tell dirty jokes!'" (Michèle)

The types of violence in this first act arise from the inherent sexism encountered in the industry even as they contribute to “normalizing” that sexism. There may be inclusive norms and best organizational practices to neutralize them, but the application of such norms and practices is uneven. Even more difficult is monitoring their implementation (especially in small crews or on remote worksites), and their effectiveness seems to rest on the goodwill of employers and the willingness of individuals with authority to respect them.

Act 2: Threats and attacks on physical and psychological integrity

The types of violence in this second act involve a new element: instead of concerning all women, they target individual women workers. These include paternalistic behaviours, intimidation, assignment of tasks that are boring

or repetitive (or, inversely, dangerous), testing, sabotage, sexual advances, voyeurism, (cyber) harassment, and different forms of verbal, physical and sexual injury and abuse. Far from being restricted to the workplace, these types of violence encroach into and affect the personal lives of women workers, notably through social media. Trivializing the sexism at the heart of the violence in the first act of the typology encourages these second-act types of violence and their escalation, even as it impedes recognition of their discriminatory nature.

While women workers are quick to report and react, especially when physical contact is involved, they are less likely to mention more subtle manifestations that may not be taken seriously in this environment. Downgraded to interpersonal conflict (where women have few allies), these types of violence require women to use humour, tact, circumspection and sometimes just give up the battle. Even when their physical or psychological well-being is not directly threatened, these types of violence exact a heavy mental toll on women in their daily life. As they accumulate or intensify, these types of violence can irritate, demotivate and exhaust women, sometimes to the point of making daily life unbearable. The spectre of this violence and its impact appears to be strongly related to the extent to which sexism is “normalized” in the work environment.



For me, being happy is being outdoors on a site working hard. That's my life, that's what I like! It pisses me off to have had such a shitty experience because it took away my desire to work in this field. Sometimes, they put so many road-blocks in your way, you tell yourself you have to be strong and just take it and not say anything. That's why we trivialize our experience, and that's what I did: I downplayed what I went through because I thought I just had to be strong and not show what I was feeling. I think that's why so many women have trouble speaking out, because we have to be just as strong as them. In reality, those guys aren't stronger than us, they can't tolerate the half of what we put up with. But it isn't what I chose. I chose this job because I liked it, but I didn't choose to be treated like that.” (Pascale)

Finally, there are types of violence inherent in the failure to address – and even to deny – the problems encountered by women workers by the authorities meant to protect them (whose oversight is not systematic, as when work is unregulated). This exacerbates women’s sense of injustice and distress, while also compromising their confidence in these authorities. Formal and informal recourse are thus rarely used, with women considering self-exclusion or resignation as the simplest way to end the violence, hoping to quickly find work on another site or for another employer.




One day, I was in the office with my colleague; I was hot and so took off my sweatshirt. He's sitting there looking at me and then he throws his wallet at me and says: 'Keep going', as if I was doing a strip tease. For some people, that wouldn't bug them, but for me it kept accumulating ... I never registered a complaint; I never said anything. What I tried to do instead was to avoid working with him. Recently, I've been coming to work late every day to avoid running into him. I couldn't do it anymore; I was fed up; it was too much. Because of that, I didn't feel like staying on." (Noémie)

"I really felt like reporting him at one point, but ... the union wouldn't support me at all. ... it would have taken ... I wasn't able to ... I couldn't report him. I didn't stay in that company because every morning when I would go to the office to start my day ... I would get strange images in my head. I was just too frustrated; going to work frustrated every day is no kind of life. So, I decided to leave." (Mélanie)

Women workers are expected to “deal” on their own with the violence they experience while maintaining the established order; recourse is discouraged. The effect is to sustain the aggressor’s impunity along with the ambient sexism. However, in other instances, the positive experience relayed by women about the support and recognition they received from employers and supervisors, but also from colleagues and union representatives, reiterates that violence is not immutable and that effectively managing situations has a direct impact on the strategies women employ.


Act 3: The precariousness of employment

In contrast to the types of violence in the first two acts of the typology that target women’s dignity and integrity, the type of violence referred to in this third act jeopardizes the employment relationship. Discriminatory practices – ranging from (explicit or implicit) refusal to hire women to requiring a countermeasure for something obtained – increase the economic precariousness of women workers, in addition to shifting them to worksites with disadvantageous working conditions that are less appealing to other workers.

 *I'm done in physically from working doubles and triples. Because we take shit jobs. You take the shit job, you're always the last one chosen. So now I'm just worn, worn out, it's over. You work under the table, you don't declare your earnings, you work self-employed but on big construction jobs. So, I have no pension, a few hours with the CCQ, but I'm naked in the street. With nothing. I have nothing, nothing, nothing ... as much as you say 'I worked like a dog' ... but no, I end up with nothing anyway." (Catherine)*

"Because work was slow, and I had to go have dinner with this guy to get the job. He was a general contractor, my uncle worked for him, and asked him if he knew a company I could go work for. He said, 'I know one, but she'll have to come have dinner with me'. You understand, this guy was in his 40s or 50s, and I was 18 or 19 at the time. I told myself 'I need a job; it's already October, and there won't be much chance of finding anything in winter'. And because I was in my first year, I didn't have enough hours to qualify for unemployment. So, I told myself 'Ok, I'll go'. Today, I think it doesn't make sense, I'd never do that again. But when you're in your first year, you come out of school and into the field and you don't know where to turn. You accept whatever's there. And ... I could tell he wanted to try ... I just wanted to leave, and I didn't want to cause trouble because my uncle worked for the guy. So, it wasn't just a question of me ditching the supper because I thought the guy was going too far; I didn't care so much about the job, but I was thinking about my uncle who said he would lose his job. That just added to the pressure on me; he had a lot of power on his side." (Chloé)

Last hired and first to be fired: just as most women workers face discrimination in hiring practices, many of them have also experienced or witnessed disguised dismissals. When the dismissal comes after a woman has lodged a formal or informal complaint, it appears especially significant, not only for its economic impact, but also as it threatens their ability to obtain future contracts. Women workers know they are identifiable and will be remembered (they make up less than 2 per cent of the workforce).

 *I have a colleague who was working with a guy who took her hand and literally placed it on his balls and penis. He said: 'This is what you do to me'. She made a complaint. But then she was the one who was reprimanded. And she was the one left out and barred from worksites." (Victoria)*

Discrimination in obtaining contracts and unfair dismissals are two phenomena that not only control the presence of women workers on construction sites, but also, through their (actual or threatened) economic impact, exacerbate women's vulnerability to the different types of violence described in the first two acts of the typology.

Act 4: The role of institutions

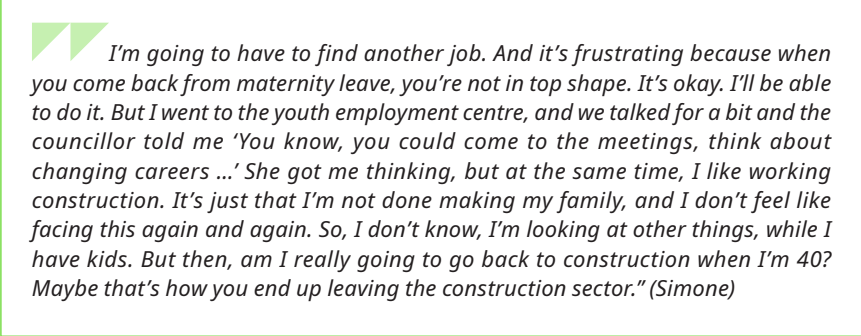
Women workers' ability to defend their rights to social protection and access social programmes that are meant to support their participation in the workforce are the key issues in this fourth act. The organization of work in the sector makes access to unemployment insurance of central importance, given the unstable and time-limited nature of contracts and the seasonality of work, but also because unemployment insurance can provide women with a way to escape the violence they face on a worksite. Given discriminatory hiring practices and the fact that they receive fewer hours of work, women face challenges in accumulating enough hours to be eligible for unemployment insurance coverage for a decent amount of time. This interferes with women's eligibility to receive benefits on which they are financially dependent and to which they have the same rights as their male colleagues.

I was tight; they requested 650 hours when I think I had 750. I was ok but come September I was just hoping 'it had better go through'. And I was sitting at home, texting the superintendent: 'Do you have work for me?' Everyone's working and I'm not. He told me: 'Oh, well it's going to rain ...' And they weren't even calling for rain. 'We really can't get you working this week'. And a few weeks ago, I asked him to give me my lay-off notice due to insufficient work, because he hadn't been able to fit me in. And I wanted to be sure it said 'work shortage' and not that I decided to go. I had already been sitting at home for a week and a half." (Mélanie)

Institutional violence thus appears in the sexist bias of eligibility rules for the Canadian unemployment insurance programme, but also in the power – and arbitrariness – the process gives to employers. Access to these benefits, as well as to those tied to workplace health and safety and preventive leave for pregnancy and breastfeeding, can become a negotiating tool or lever of control that employers use to their advantage with complete impunity. As well, the particular union context (such as grievance and the exclusivity of representation) and organization of the sector (notably in terms of workforce rhythm and mobility) create grey zones that can be used against women workers.

Finally, a discussion of women's participation in the workforce cannot ignore the importance of work-family balance, as mothers continue to fulfil most parental

responsibilities. The issue of access to subsidized daycare arises, as schedules for these services are ill-adapted to working hours in the construction industry, creating dilemmas for women and leading some to decide to leave the field.



I'm going to have to find another job. And it's frustrating because when you come back from maternity leave, you're not in top shape. It's okay. I'll be able to do it. But I went to the youth employment centre, and we talked for a bit and the councillor told me 'You know, you could come to the meetings, think about changing careers ...' She got me thinking, but at the same time, I like working construction. It's just that I'm not done making my family, and I don't feel like facing this again and again. So, I don't know, I'm looking at other things, while I have kids. But then, am I really going to go back to construction when I'm 40? Maybe that's how you end up leaving the construction sector." (Simone)

With this fourth act of violence, women are confronted with a system – seemingly neutral – that, instead of supporting them to remain at work in construction, serves to seal it hermetically. Many women come to the conclusion that they will not be able to continue in the industry despite all their efforts and strategies.

Reflections on the survey and its typology

Supporting the results of other research on women's experience in the construction sector in Quebec, the sexist and sexual violence reported by the 24 participants interviewed in this project are extremely heterogeneous: their form, nature, complexity, the people they involve, and their effects vary according to context and to the women's tolerance thresholds. Such violence is committed in a context of impunity, due to the trivialization of sexism and its effect on excluding women, a finding that concurs with the literature (Beeman, 2012; Charest et al., 2017; Cloutier, 2018; Dugré, 2006; Dumont, Pelletier, and Desbiens, 2013; Legault, 2001). Discrimination makes it difficult for women to accumulate hours – to assure advancement or access unemployment insurance – which is intimately tied to the neutralization of recourse, a challenge also identified in earlier work (Beeman, 2012; Charest et al., 2017; Dumont, Pelletier, and Desbiens, 2013). The typology of sexist and sexual violence elaborated here nevertheless allows for a more refined understanding of the mechanisms by which harassment and discrimination contribute to the high rate at which women leave the industry. It explains the problems of women worker retention in the construction sector through the confluence of four axes of discrimination:¹⁵ (1) organization and culture of worksites; (2) threats and attacks on physical and

¹⁵ For a summary of the typology in four acts, see table 1.


psychological integrity; (3) precariousness of employment; and (4) role of institutions. Alongside its contribution to the issue of retention (which, incidentally, remains under-studied), this original approach reveals two areas that require further exploration in order to understand the persistence of violence at work in the construction sector.

The purpose of violence is control

First, this typology reveals the close relationship between sexist and sexual violence and the organization of work in the industry. Counter to a dichotomous and linear vision of retention – as if it could be summarized as being “on” the worksite, then “out of” the industry – what appear are far more sinuous professional trajectories. These feature multiple comings and goings, obviously between employment and unemployment, but also between regulated and unregulated worksites, between shop work and under-the-table work, and between women’s work in the trade and other sources of income that allow them to keep one foot (and only one) in the industry. The different forms of sexist and sexual violence therefore tend, as Legault (2001) suggests, to shove women workers into less stable¹⁶ and lower-quality contractual arrangements. Considering this particular structure renders the phenomenon of leaving the industry more complex, and reveals the price paid by those who stay; before they leave the industry, women have often already deserted the worksites most coveted by their male colleagues. This perspective merits further exploration with regard to the push to deregulate the construction sector underway in Quebec (Bilodeau, 2011) as in the majority of industrialized countries (Bosch and Phillips, 2003; Sassen, 1994).


The typology, which starts with the idea of a continuum of violence against women (Kelly, 1987), brings us back to the function of different practices, behaviours and norms that specifically affect women in the construction industry: controlling and exploiting. In fact, the entanglement between the different types of sexist and sexual violence and their exclusionary effects mean that women work harder, often in conditions that pose a greater risk to their health and safety, and are solicited sexually in the course of their professional work.

¹⁶ In a context of atypical employment in the construction industry, employment stability can be seen as full-time work, regularity in the sequence of contracts for a same employer, guaranteed employment from one season to the next, and planned periods of unemployment.



I think we so desperately want to work, to get the job, to make a good impression, to fit the image of someone who never complains, who always looks ahead and never back, etc., that we just accept everything. You'll accept dragging stock around, you'll accept doing overtime, but it will never be paid time and a half. Some of the guys will do it too, but I mean: you'll take on even more than the guy beside you because you're afraid of losing your spot." (Chloé)

The particular way in which the industry functions – with a series of one-off and variable term contracts for multiple employers – creates a situation that exacerbates women's vulnerability and increases the control male actors have over hiring, job retention and professional advancement.



There are crooked worksites, but you notice that crooked companies hire people who are crooked. Now I'm with a good company, so we have pleasant worksites, and the people are fine. And there's also, a site manager once came up to me and said, 'if things seem out of line or the guys aren't cool: come tell me', so I think increasingly construction sites are going in the right direction. ... It gives me confidence to know that when I'm on his worksites, I'll be more at ease." (Lydia)

This relationship of dependency and interests is an important vehicle for increasing sexist and sexual violence because it places women workers in asymmetrical power relations in which economic precariousness leaves them few outlets. Women workers try to find companies where they can count on a steady income. This desire is shared by their male colleagues but is, as the typology illustrates, particularly decisive for women as a way to guard against the violence they are subjected to at work. This particular injunction once again emphasizes the heavy burden women must bear to maintain their place in the trade.

The phenomenon of exclusion must therefore be approached by distinguishing between what is choice and what is constraint if we are to understand the risk assessment women undertake in order to remain in "the best of the worst". Systemic discrimination, as detailed by the typology, makes it so that women are expected to remain docile even while paying the price for a favour they supposedly receive. The control that certain actors in the industry exert on women's ability to obtain, maintain and renew contracts highlights the particular form of exploitation that women are subjected to in the construction sector.

A hypervisibility/invisibility paradox

The persistence of a “hypervisibility/invisibility” paradox (Atif, Dumont-Lagacé, and Hamel-Roy, 2016) is a second finding revealed by the typology. In the past few years, the CCQ has implemented initiatives to increase the visibility of women and recognize their contribution to the construction industry (CCQ, 2015; CCQ *La mixité en chantier* campaign; CCQ *Carnet de référence construction*). This “hypervisibility” – where women appear prominent “on paper” – gives the impression that they have a privileged place in the industry. Once they arrive in the workplace, their presence is thus viewed as a privilege, lacking real merit: this is an unintended effect that authorities should, nonetheless, recognize. While the women themselves are made hypervisible, the specific challenges they face through prejudice and informal barriers are rendered invisible, thus exacerbating animosity towards measures designed to facilitate their retention.

I've always thought – and it may be that I'm too naïve – that I lived in a country with a structure that protected me, that I had a social safety net. I've always thought that even if I'm a woman and we face discrimination, that when we have the guts, we can push through. But that's just not true, not when it's systemic discrimination. I know that now, but the realization makes me very angry.” (Suzanne)

To find their place in the industry, women workers try at all costs to be recognized as workers (and not as women). They use a wide range of strategies: becoming “masculine” (for example adopting a particular corporeal *hexis* and manner of being and acting that resembles virility), refusing to criticize the machismo in the sector, denying the difficulties they encounter and eschewing the measures designed to alleviate them. In short, they find themselves obliged to enter into a competition where their systemic disadvantage is neither recognized nor addressed. This reinforces women’s isolation and exclusion and, ultimately, undermines their ability to be recognized as full participants in the industry: for the time being, they remain merely “guests”.

They still say the girls complain too much, and I can't say I haven't thought that too. Because you feel so much like 'one of the boys', but in the end you never really are. Likely, if I had made a complaint, they would have denied it and they have powerful lawyers. It's 72 against you and he's the site manager or whatever: am I really going to go to battle with that guy? No. I'll go somewhere else. But elsewhere, it will happen again and again and again, as it always has! So, I didn't do anything because I knew it wouldn't lead anywhere. It wouldn't change fuck all.” (Catherine)

Ultimately, this hypervisibility/invisibility paradox rests on the absence of interventions that simultaneously consider the depth of sexism in the sector, its foundation in discrimination, and its articulation in terms of how the industry is organized and functions.

Conclusion



Construction, for me, can be extremely rewarding. You make something and you see the final result. You tell yourself 'I was involved in that! Look at that building; it's incredible! It's damn beautiful!' That's super rewarding, to be part of developing a society. It's incredible!" (Victoria)

Integrating and retaining women in the construction industry are major challenges for equality between women and men in Quebec. Not only are working conditions in predominantly male trades generally better (notably in terms of remuneration, benefits and union protection) than in traditionally female occupations (Legault, 2001; Rose, 2016), but we also have to remember that these trades are, for most women workers, a career they have consciously chosen and a real passion. The sexist and sexual violence they face is thus inseparable from its discriminatory foundation: women workers are victims *because they are women*.

The resistance to integrating women in non-traditional sectors therefore constitutes a denial of justice with regard to economic equality and dignity, as well as a larger attack on women's freedom and right to self-determination. While primary responsibility for their professional career paths rests with women, the survey carried out as part of the ATF's activities emphasizes that measures are needed to address the systemic foundations of the obstacles that women encounter along the way.

► **Table 1. A typology of violence in four acts**

	Act 1	Act 2	Act 3	Act 4
Violence manifests as...	a culture and an organization that endorse and “normalize” sexist and macho “ways of being and doing things”	direct and targeted individual attacks on physical and psychological integrity	forms of control over the employment relationship (discrimination in hiring, abusive dismissal, requests for favours)	sex-specific bias in access to social protection programmes (unemployment insurance, preventive leave, etc.)
which affect retention by...	denial or trivialization of sexism and discrimination against women	jeopardizing individual career paths	increasing the economic precariousness of women workers	increasing the hermetic nature of the industry, sealed by institutional violence

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► **Feminist workplaces: “Safe spaces” for black women?**

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In recent decades, the proliferation of claims related to issues of racialization has led the majority feminist movement of Quebec to confront the state and history of their relations with women from minority groups (Hamrouni and Maillé, 2015). Reaching out to racialized immigrant women, the question of accessibility of women with disabilities and the inclusion of transgendered women have become subjects of debate in several institutional feminist spaces. Meanwhile, we have witnessed the use of theoretical tools developed by black and racialized activists which, in their rise to popularity, are extracted from their origins and assigned a new genealogy with “whitening” effects (Bilge, 2015). Davis (2008) would go so far as to designate the concept of intersectionality as a “buzzword”. Finally, the recruitment of individuals from “diverse” backgrounds has slowly become a valued employment and marketing tool in environments in which the ethnocultural plurality is constantly growing (Ahmed, 2015). In this context, the arrival of black women in institutional Quebec feminist organizations raises numerous issues: How are they integrated? What can be said of the power relations around race? What place do black women occupy in the imagination of this milieu? The mere presence of black women brings the issue of racialization into a battle historically centred around gender. How do we approach social racial relations in such a space? The issue we propose to study is the experience of black women in feminist organizations, not only as employees but also as volunteers.

The goal of this chapter is to demonstrate the existence of violence in the experience of black women within organizations that have as a mandate – perhaps even as their primary mandate – to work towards equality of the sexes. In addition to documenting the experience of black women, we aim to analyse it. Our hypothesis is that power relations centred around the race issue are not only present in these organizations, but are also unique to them and tend to be either concealed or minimized. One particularity of these organizations is that they offer a workplace that is presented and perceived as being a “safe space” where women can go about their day-to-day activities relatively protected from discrimination.

As black immigrant women in Quebec, we have worked in and advocated for the community sector. As such, we have witnessed and experienced highly specific power dynamics. Some of these testimonials therefore reflect our own experience. Articulating and validating the daily experience of black women as

a collective struggle helps create sense and a link for the individual. “Theories do not exist solely for analyzing the experiences of others, they coexist within us and through us” (Saavedra and Salazar Pérez, 2012). This centralization of the experience of black women is at the heart of our practice, as is the recognition of their position as theorists (Crenshaw, 1991; Lorde, 1981; Walker, 1983), which is well aligned with *standpoint theory*, or local knowledge, to which we subscribe. This theorization is largely opposed to an academic or scientific production that presents itself as objective, neutral and in particular universal, yet is dominated by white, cisgender, middle- to upper-class men from Northern institutions (Collins, 1990). Local knowledge is an epistemic turning point that allows “the damned” to emerge as questioner, thinker and theorist (Maldonado-Torres, 2016).

To our own knowledge, we have added the result of close to a dozen informal interviews conducted in person and by telephone. Following a radio show¹ and the publication of an article in *Le Devoir*² on the topic, we also received comments on social media and in private messages that we asked to use as part of our research. This chapter was written while we were still collecting testimonials. Nonetheless, we were able to identify several similarities between the experiences of the participants that clearly revealed the existence of power struggles in environments considered “safe spaces” (Lewis et al., 2015).

The first part of this chapter revisits the history and development of feminist struggles in Quebec. We then expand on the different stereotypes affecting black women since the time of slavery and the way in which these stereotypes affect their treatment in workplaces to this day. We go on to present various examples of violence against black women and their particularities when such violence occurs in a so-called feminist environment, all the more so when gender segregated. We conclude by outlining the survival strategies developed by those interviewed and the urgent need to re-politicize intersectionality.

Historical brief of the women’s movement in Quebec

Feminism in Quebec developed out of the experience of women in a majority position: white, middle-class, francophone citizens, without disabilities. It was also largely shaped by French-style materialistic feminism, a movement historically unaware of the issues of racialization, colonial processes or indeed any other power relations that could threaten the homogeneity of “us women”. Feminism in Quebec also emerged in a political and historical context in which

1 Almeida, J. (2019, 21 February). *Les violences subies par les femmes racisées au sein des organismes féministes*. Available at <https://jadealmeida.com/2019/02/21/les-violences-subies-par-les-femmes-racisees-au-sein-des-organismes-feministes>.

2 Lopez, M. (2019). «Notre colère est émancipatrice». *Le Devoir*. <https://www.ledevoir.com/opinion/idees/549432/notre-colere-est-emancipatrice>.

a large majority of women identified with double oppression: being a woman in a patriarchal society and a member of a linguistic and cultural minority, francophone in an anglophone country (Maillé, 2007). The legacy of the broader national question itself became a barrier to the possibility of analysing the power relations within the movement. Within this context, the following quote from Audre Lorde (1981, p. 132) resonates with relevance:

“What woman here is so in love with her own oppression that she is no longer able to see the imprint of her heel on the face of another woman? What woman here uses her own oppression as her ticket to the ranks of the righteous, far from the icy winds of the examination of conscience?”

If universal sorority has long been an important value in feminism, it is valuable to question one’s boundaries when the issue of race is taken into account, all the more so because although the participation of black women in feminism in Quebec is not recent, it has been the subject of systematic erasure in the construct of its genealogy (Austin, 2013).

Stereotypes ascribed to black women

Black women are subjected to a specific “Othering” process that derives from and reinforces existing power relations (Hall, 1997; Saïd, 1978; Omolade, 1994). Patricia Hill Collins, in *Black Feminist Thought* (1990), presents an in-depth study of these stereotypes. She identifies four towering characters saturating the representation of black women: the “welfare queen” (a single, working-class mother living on social assistance who benefits excessively from State support); the “matriarch” (a vicious woman with too much power and authority within her family, causing the castration of the men around her), the “nanny” (a desexualized woman with an undesirable body whose only goal is to serve the white families who employ her); and finally, the “jezebel” (a woman of insatiable sexual desire, associated with the image of a sex worker, lying outside of heterosexuality). It is worth noting that these normative archetypes are both produced and leveraged by social institutions in order to legitimize the surveillance, control and criminalization of black women (Collins, 1990; Maynard, 2017). For example, the jezebel figure is a representation that authorizes and pardons rape. Her sexuality is depicted as animalistic and as such, not worthy of protection (Horton and Smith, 1993). In an analysis of one hundred years of criminal trials in Ontario (1858–1958), Barrington Walker (2010) noted that accusations of black men raping white women would provoke strong popular uproar and be judged with extreme severity (with or without proof of the crime), whereas accusations of white men raping black women were received with considerable indulgence (even in the presence of proof) and only rarely were white men found guilty.

Today, we know that black women and girls are victims of sexual violence at a younger age and are at greater risk than white women. The risk ratio rises if they are a member of an LGBTQIA+ minority (Conseil Québécois LGBT, 2017). Black women are the most marginalized and the least represented women in health centres for victims of sexual violence. Their specific needs are the least recognized and addressed, and they are the first to be denied the right to public assistance (Maynard, 2017). Add to that the various forms of social control, justified by the “welfare queen” image, such as overexposure to the justice system, leading to criminalization, much stricter punitive measures and quicker withdrawal of child custody. Racialized women, especially Blacks and First Nation, represent a demographic majority among the poorest populations in Canada. In Quebec, more particularly, they are victims of a higher rate of unemployment, more often occupy jobs for which they are over-qualified in terms of their education and earn far less than white individuals in comparable jobs, including white women (Maynard, 2017). This brings us to another stereotype affecting black women, that of the “strong black woman”. Paradoxically, this stereotype precludes any recognition of a black woman’s need for help and support (Perry, 2011); the “strong black woman” does not tire easily nor does she need help, much less is she recognized as a victim. She can withstand any wrong or burden because she is (supposed to be) the source of infinite strength and resilience (Almeida, 2019a).

Where the “welfare queen” image justifies the absence of social assistance and the criminalization of black motherhood, the figure of the “nanny” enables association of black women with servitude. Government programmes thereby justified the systematic orientation of black women toward less valued and more precarious employment because they would be naturally predisposed to it. Since the beginning of the twentieth century, women from Guadeloupe have immigrated to Canada, but it was in the 1950s that a special programme was introduced to organize the arrival of feminine labour: the Caribbean Domestic Scheme. This programme used racist and sexist stereotypes to justify restricting these women to a specific class of work:

“Pervasive racist-sexist stereotypes prevailed, deeming Caribbean women good “Island” or “West Indian” girls best suited for domestic work despite the fact that many of them had skills and qualifications in other areas. ... the racialization of paid reproductive labour since colonialism has trapped black women and women of colour into doing the “dirty” work as domestics and nannies in white middle-class households or as cooks, cleaners, health-care aides and nurses in public institutions.” (Crawford, 2003, p.37)

Finally, the figure of the “matriarch” personifies the refusal to stay “in one’s place”, to know how to “perform adequate femininity”, to have “an attitude” (Collins, 1990), which corresponds to the stereotype of the “angry black woman” (Perry, 2011).


This complex climate of violence combines the oppressions of race, sex, gender and class, and has its roots in a pro-slavery past that still resonates today. These stereotypes continue to shape the way that black women are perceived and treated on a daily basis (Maynard, 2017). Now, in an environment that has not done the work of consciousness-raising and deconstruction required to address these issues, the recruitment of black women leads to violent situations. We will discuss these in the next part of this chapter.

The forms of violence experienced: Becoming the problem

First, many testimonials we received mentioned the violence exercised by tokenism, that is, of being employed specifically to fill a minority-hiring quota (established or figurative). Recruiting people as a “token” (as one woman put it) promotes the image of an inclusive structure without introducing real change. Tokenism is, itself, the means, but especially the end, of all antiracist work (Ahmed, 2016). In fact, it assumes the inclusion of people from marginalized communities, but in positions that guarantee no specific power or significant impact in the work structure. Not only does a black individual enter an environment having an established work culture based on a white majority, but she also finds herself in the position of validating it and thereby stemming all possibility of additional criticism. We can no longer reproach the organization in question for its lack of inclusion since it has within its ranks an employee from a “diverse” background. The image of change thereby becomes the “proof” of a change that did not in fact take place, as Ahmed (2015) notes when she describes the concept of “non-performativity”:

“I have used the term ‘non-performativity’ to describe this: how commitment can be made to something as a way of not bringing something about. Equality and diversity can be used as masks to create the appearance of being transformed.”


This is often despite the promises made at the time of hiring, as this participant said:



When they hired me, it was: 'Really, we're focused on improvement; we're aware of the limits of our approach, so you will really be here to help us go in the right direction, to better reach out to women from ethnocultural communities. Our organization really wants to have an intersectional approach.' This was the idea that 'you're going to come work with us and help us change.' But once I started, I quickly realized that I wasn't going to change anything. As soon as I made the slightest comment, or the slightest proposal, I was up against a wall. And the wall was more and more obvious. At first, they would tell me, 'yes, why not; we'll think about it because it might be a little difficult, or we don't have the money, or ...'; always an excuse. But over time, it was more and more of a direct 'no'. And especially less and less welcoming when I made comments. They really made me feel like I was starting to get on their nerves, as if I was the one who refused to do her job well or who always wanted to create problems where there were none."

The participant explained that she stopped making proposals and contented herself with doing what she was told, i.e. precisely the same type of work that was done before her recruitment. When asked about the type of concrete changes the employer had implemented since her arrival, she was cynical: "The term 'intersectionality' appears in all our documents, but it changes nothing in our activities, and I'm in all the communications photos; aside from that ...". She shrugs. Several other participants described having tried to effect change, but after facing the wall or sometimes facing blame, they ended up abandoning their efforts.


For another participant, her perseverance ended up paying off, but the cost of her efforts was high:



There were some changes, for sure, in the practices and mentalities; but it was really hard. It took almost two years for minimal changes, and lots and lots of attacks on me, my legitimacy, my job. Many things were blocked as well. Some colleagues were really hard to manage. And management didn't necessarily back me up; in fact, not at all. I did a burnout the first year and came close to a second the following year."


Wanting to be a force for change in an environment that lacks adequate mechanisms and genuine willingness to support the change mandated has resulted in negative impact on the well-being of our participants, not least because their efforts to change the organization have been carried out mostly from precarious positions (contractual, internships, part-time, at the bottom of the organization's hierarchy) and therefore, with increased risk to their job security. Several mentioned that reporting a problem was ultimately seen as a problem itself.

Those hired as change-makers become a thorn to the organization because they constantly want to address issues that are not perceived as problematic by their colleagues. They create problems by their very presence.




You become the ‘difficult black woman’ – the colleague people can’t work with because she always has something to say – even if your mandate is precisely to see the problems and fix them.”

Add to that the sometimes daily acts of microaggression that our participants experience, especially black women in a workplace that has inherited a notion of femininity as being white (Hooks, 1984). Thus, the existence of specific stereotypes of black women has a negative impact on their careers, as well as on their relations with their colleagues (Reynolds-Dobbs et al., 2008). The “angry black woman” is a particularly decisive cliché:



There are no men at my job, so the threat of aggression has kind of shifted. As a black woman, if I’m not careful about my tone or the volume of my voice, right away I will be seen as the aggressor. I will be seen as hostile. So, I always have to perform more. I am very careful to smile. I make sure to say hello. Basically, I do more, because if I don’t, I’ll be told right away that I look angry.”

Another participant says:



I don’t know how many times I’ve been told that I was hostile or too upset all the time. We could be having a discussion, there will be a disagreement, and automatically I see that they have the reflex to back away or to tell me to calm down, even if I’m not upset at all. I simply defend my position. But I will be seen as aggressive.”

And another:

The coordinator (a white woman) came to tell us that the organization had rejected our project proposal. We tried to defend the importance of the project. She saw two black women arguing and right away she felt ambushed. She asked us not to shout. We weren't shouting at all, but she asked us not to shout, and she put her hands on her head and bent down and kind of curled up as if to protect herself. My colleague (the other black woman) and I looked at each other, perplexed."

Afterwards, the two young women went to have a discussion with the coordinator, who apologized for her reaction. That said, one of the two participants was let go several weeks before the end of her contract. In the letter of explanation, the word "intimidating" was used as a motive for her expulsion. The consequences can therefore be quite heavy: firing or isolation within the team. All participants also mentioned mental and physical costs: feeling "burned out" or "spent" at the end of a day when they had to be especially mindful of their attitude or the way they spoke; repeated "burnouts"; and "episodes of depression". Several also said they experienced somatic symptoms, such as more frequent asthmatic symptoms while working for the organization, or dermatological problems that drastically worsened after their hiring.

Some of the testimonials also denounce the conceptualization of gender violence as being more prevalent in ethnocultural communities. Black women who have worked in organizations that intervene in cases of violence against women report several cases in which racialized men were depicted as being intrinsically more violent:

I don't know how many times I had to go to conferences where the topic was the sex industry, and the pimps were visually represented in the presentations of research results as black men. ... Or at my job, people will share articles and even videos with a racist quality stigmatizing my community, and I'll have to keep quiet. I experienced that as violence."

Witnessing or having to participate in the denigration of their culture in contexts of violence against women is a burden to carry.

The violence of “white tears”

All participants also mentioned the fear of making their colleagues cry. Several white women with whom they worked broke into tears while our participants were attempting to have a discussion with them. One participant said:


I was doing a project with my colleague, and she was taking a long time to do her part. So, you know, I see the deadline approaching, so I told her pointedly to get to work. She started to cry, right there in the office. I was shocked. I told myself she maybe had something happening at home or ... I don't know. Anyway, she apologized and left. The next day, the director came by my office to tell me that I had made someone cry, that it wasn't the way to work here. In a very dry tone. It was like I was being given a warning for serious misconduct. ... And in the end, she didn't do her work, and I ended up having to do her part, of course!”

Another:

I was sharing my office with a white woman. I had just started and thought everything was going well. We laughed together, we talked. And you know, I am very expressive, so sometimes we laugh, and I guess I pat her on the back, just because we're laughing. ... And one day, I come into the office and find extra chairs in the room, all in a circle; my coordinator is there and so is my colleague. And I see that she's crying. So right away, I'm worried about her. I ask her, 'Are you OK?' I had no idea what was happening. I was just worried about her. Then I discover that she's crying because of me: 'You talk too loudly, you take up too much space, you hurt me when you touch me, you hit me too hard.' I was shocked. And then the coordinator explains how emotions work in Quebec, that emotions are valid. I said, 'But why you are you crying over that? Why didn't you just tell me ...?' Because apparently, I was entering her bubble or ... Plus, I'm large, and she said, 'You take up too much space in the office.' Really, I was shocked. And every time I tried to defend myself or talk, the coordinator would tell me to be quiet. She was saying, 'Listen ... Take the time to listen; you talk too much; you take too much space; even now you're taking too much space!' so I was really reduced to silence the whole time. And she continued to cry. After that, I was so shocked that I was scared. I was hugging the walls. I didn't dare speak to her. I finally asked to change offices, but even after that, I was still scared. The whole experience ... that they had chosen a date in their agenda ahead of time, so there was a hidden agenda. I just showed up to find chairs in a circle with the coordinator present.”


This participant ended up quitting her job after accumulated experiences of violence. But the final straw was finding out that she was underpaid compared to the rest of the team at the same job level. Confronted on the subject, her director offered to correct ‘the mistake’ and apologized profusely for the ‘mis-understanding,’ but the participant preferred to leave.

The instances recounted about colleagues who burst into tears, or the fear of making them cry, are abundant, and participants stated their bitterness about such incidents. They clearly perceive those tears as a tactic to escape all liability, which works all the better because it fits the image of the fragile white woman. Those situations are all the more violent to navigate since one of the particularities of their workplaces is to encourage them to be “close to their emotions”, which they perceive as not being an option for them:


 *Supposedly, it's all in the sharing. Everything is very horizontal in the organization. Supposedly, because in reality, we know where the power is. But the form is horizontal,^a and we often have meetings where we start by going around the table to share our feelings. Personally, I don't share anything. I don't have the luxury of being able to complain for 25 minutes like others and to be reassured by that. 'I'm doing very well, everything is great; next!' is my motto."*

 a That is to say that the organization officially has a horizontal structure in which everyone is on the same level in terms of power; however, in practice, informally, the operations are very vertical.

Not having the luxury of “complaining for 25 minutes” refers specifically to the increased supervision of their work performance and their schedules. Several said they felt more pressured to succeed than their colleagues and received fewer rewards when their work was well done:

 *I am more often asked to report on what I am doing. Or my schedules. I have a colleague who comes and goes, she misses a day, no worries. If I leave a half-hour early to pick up my daughter at school, the next day they call me into the office to basically tell me that I can't leave like that – while literally everyone does it. Everyone except me. I have to announce it 15,000 years in advance, ask for permission, etc."*

The increased supervision of their work extends to increased scrutiny of their appearance. All our participants, without exception, have anecdotes about concerns related to their hair, clothing, jewellery, shoes, etc.



One day, and I'm not lying, I arrived at work and I looked at my watch, thinking, 'OK, let's see how much time they're going to spend on me', because I had braided my hair. I knew. Twenty-five minutes! Twenty-five minutes, no kidding! A conversation with colleagues, and there it was. I was there, but we talked about my hair for ... And it wasn't necessarily mean, but apparently it's important to dissect how many times I change my hairstyle for 25 minutes at our workplace."

All reported similar instances, to the point where some prepare themselves mentally in the morning before heading to work. Others, on the contrary, change the way they dress or refuse to adopt certain hairstyles, even if they know their appearance is professional.

Finally, three women reported being let go. Two of them explained that their firing, though not expressed in these terms, was motivated by the fact that they continually denounced not only the racism but the transphobia of their organization. One of them was fired a few weeks after asking her director for an intervention as the result of racism she suffered at the hands of the hierarchical superior with whom she had been partnered. In all three cases, the projects they were in charge of received no criticism, and they never missed a deadline. Notice of their firing took them by surprise, especially since two of them were fired under the pretext of professional misconduct. In addition, pressure had been exerted to prevent them from filing a complaint. Both had only a few days to decide to sign a non-disclosure agreement about what they had gone through within the organization. The document had been presented to them as an obligation if they wanted to receive any severance pay. The third woman was given budget cuts as a reason for the firing, which turned out to be false. On the contrary, the budget had been increased and two people were recruited to fill her position. One of her friends who is still a member of the team revealed to her that, in reality, the management had judged her “too difficult to manage”, specifically because of her complaint of racism against her superior.

Survival strategies and resistance

Several of our participants came to develop survival strategies. One of them, for example, made a habit of never discussing anything important verbally but communicating solely by email: “I will re-read what I wrote 15 times and use all the polite forms to make sure no one can reproach me for anything.” This not

only allows her to control the discussion but also to keep a trail of the conversation in case she needs to defend herself against any accusation. Nonetheless, even in writing, she has sometimes had to explain that her email in no way demonstrated “any anger or frustration, but just a request for clarification”. In addition to being mindful of tone or posture, never raising their voice, never getting upset or crying in front of witnesses, and smiling constantly, women report specifically avoiding being alone with colleagues if a discussion becomes difficult or heated. Those whose organizations have other racialized people try to have them in the room if a delicate subject needs to be discussed. Several mentioned trying to “harden” themselves to navigate their jobs: “not to react” to what they hear or constantly dampening the impact by saying “it’s not a big deal”. Others go so far as to change their personalities:

You develop a sort of shell. They say or do what they want, and it slides off you. But in fact, I try to go even further. I’ve really tried to make them feel at ease, so I’ll talk or act in a way that’s not really me, that’s like an imitation of them. Just to protect myself. Just so they feel comfortable around me. Because you want to have a place; you want to be appreciated. I didn’t understand all the codes, but I tried to the max. I policed everything I said, how I dressed; I didn’t wear red lipstick ... Lots and lots of things like that I constantly kept in mind. But later, I saw very well that they weren’t like that with other white women, only with me. So, it cost me a lot mentally. I didn’t recognize myself anymore. During the day, I was one person; at home, I was another. Mentally, it was very hard.”

The rare women who work with other racialized women always take the time to check in with one another. For example, they have breakfast together, exchange anecdotes about the microaggression they experience so they can laugh about it and gain some sense of healing, exchange messages throughout the day, etc. Unfortunately, this strategy has limits for several reasons. First, it requires the presence of several racialized women within the organization, which is rare. Second, as one of our participants explained:

Being told that, with me, they have already met the quota of racialized women creates a barrier. When another black woman was hired, I was afraid she would be easier to manage than I. Because my mandate is supposed to be critical, to work toward eliminating barriers to inclusion. I work on diversity, equality and inclusion, you see. So, I will automatically be perceived as the ‘difficult Black’ because I criticize. I know that I am disposable, so if they hire another racialized woman, I know it will be easy for them to let me go because they will have met their quota.”

Thus, the system of violence and suspicion ends up having an impact on the ability to develop supportive networks. Our participants therefore develop strategies, but those strategies have their limits. None of these women feels that the situation is getting any better, even after having broached the issue. Also, none sees a solution to the problem, aside from changing employment. The vast majority have in fact changed jobs (by choice, because their contracts came to an end, or because they were let go), but the dynamics of power exist wherever they go. As one of our participants said:



I'm at my third women's organization, and because they are all in partnership, I know all the organizations. It's all the same. Some are more violent than others, but you'll find violence everywhere you go, as long as the necessary work hasn't been done."

Conclusion

Re-politicizing intersectionality

As much as intersectionality has gained interest in several feminist circles, its application has fallen short. “Indeed, intersectionality can be said in order not to be done, as if saying it is doing it, almost as if the word takes the place of something, as promising more than it can deliver.” (Ahmed, 2016, p. 4). Not only does this reappropriation not consider systems of oppression, but it becomes a barrier to all subversive criticism from *Black Feminism*. Sirma Bilge speaks of a “whitening” of the concept of intersectionality that removes the analysis of racial criticism from the discussion and practices, while the term itself gains popularity in francophone circles (Bilge, 2015). This dynamic can be seen in several institutional environments, especially in the feminist community, as demonstrated in this chapter. The testimonials that we have gathered exemplify not only the multiplicity of violent acts experienced by black women but also their specificity.

Feminist organizations in Quebec are therefore surfing on the wave of intersectionality without analysing the power dynamics at play, much less deconstructing the relations of domination. As a result, black women do their best to navigate working conditions by developing daily resistance strategies. While this demonstrates their ability to adapt and especially their resilience and agency, these are only short-term solutions. They are well aware of this, as evidenced by their heightened employment mobility. The question of the future of these workers and activists therefore re-centres the question of power relations. If these are fluid and adapt to protect dominant groups, then the inclusion of

black women in institutions that have not undergone any substantive scrutiny is in itself evidence of the adaptation of the system. It is a way to escape criticism on questions of inclusion and racial representation while maintaining the status quo of existing power.

One urgent solution would be to return to the roots of the concept of intersectionality as developed by racialized theorists, i.e. an analytical tool that is also a praxis of deconstruction of power relations. In and of itself, it is a weapon forged by activists in the field of combat who have all too often been relegated to the margins of mainstream institutions and organizations. Only by concentrating on the needs and experience of these individuals and allowing them to criticize and especially dismantle the pieces of a system that confines them as a minority will we be able to create the future we deserve.

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► **Recognizing the legitimacy of a deep unease: Improving the analysis of systemic discrimination by considering microaggressions experienced in a society in denial about racism and sexism**

Karine Bellemare and Éric Charest



Denial occurs when reality imposes an intolerable situation on someone. Another mechanism can then come into play: rejection, which allows the person to supplant reality.” (V. Musso)

Introduction

Certain comments and attitudes can raise a variety of questions and provoke subtle forms of discrimination toward individuals from different target groups (Sue, 2010). This chapter aims to demonstrate the crucial importance of a narrative methodology based on life stories (Daiute, 2014) and to bring awareness of this importance to people who specialize in developing and evaluating public policies. Our focus will be on the complex systems of discrimination experienced by members of minority groups, and particularly women, racialized persons, persons with disabilities, members of sexual or gender minorities, as well as religious minorities and individuals who find themselves at the intersections of these various identities (Crenshaw, 1993; Luna, 2016; Swank and Fahs, 2013). We postulate that this discrimination that persists and is documented in all States, and which takes as many specific forms as there are social contexts, must be considered as the consequence of systemic racism and sexism and the relations of domination they imply, favouring some and discriminating against others (Purdie-Vaughns and Eibach, 2008).

To illustrate our argument, we refer to the life stories culled from approximately 50 interviews contained in a comprehensive study conducted by Marie-Thérèse Chicha (2009), which explores the deskilling of female immigrants with a

university degree in Canadian urban environments, using a systemic approach (Chicha-Pontbriand, 1989). From this research, which also integrated the intersectional approach of Kimberlé Williams Crenshaw (1993), we came to consider that the labour market experience of racialized women, who represented slightly more than 30 of the interviewees, could be specific to their sex and ethnic origin, as well as the colour of their skin (Bellemare, 2015). The results of this exploratory study indicated that although several immigrant professionals succeed in obtaining employment that matches their qualifications, racialized immigrants report experiencing both blatant and subtle racism upon their return to studies or their labour market integration.

Thus, in our opinion, an analysis of narratives, while at times laborious, improves the quality of the study of discrimination and its impact on individuals and communities. We also believe this work on an element of the feelings of individuals is consistent with the use of tools recently proposed by intersectional analyses of discrimination within the framework of the development and evaluation of public policies (Bowleg, 2012; 2008; Hankivsky et al., 2014; Hankivsky and Cormier, 2011; Lombardo et al., 2017; Manuel, 2006).

The consideration of microaggressions in the conceptualization of systemic discrimination

Chicha-Pontbriand (1989) proposed a now-classic definition of systemic discrimination in Quebec, inspired by the Supreme Court of Canada in the case of *ATF v. C.N.*, rendered in 1987: “Systemic discrimination is a situation of cumulative and dynamic inequality resulting from interaction, practices, decisions or behaviours, individual or institutional, having prejudicial effects, intended or unintended, upon members of groups subject to Article 10 of the Charter”¹ (Chicha-Pontbriand, 1989, p. 85).

This definition places particular emphasis on the interactions between “individual or institutional” practices, decisions or behaviours, the observed effects of which are prejudicial towards members of groups “subject to Article 10 of the Charter”. We must also understand that the various inequalities experienced by individuals throughout their professional careers do not explain the phenomenon of systemic discrimination, but rather the addition of these over time (the cumulative aspect). For its part, the dynamic aspect of discrimination refers to the idea that such discrimination will take a variety of forms, depending largely on the targeted groups and particular social contexts, but will also adapt to the

¹ The Charter of Human Rights and Freedoms of Quebec, a fundamental law that all other laws of Quebec have to respect in most cases.

evolution of social systems. In that respect, let us remember that examples of blatant discrimination are becoming less common, which does not mean that discrimination has disappeared. Rather, it has evolved into more subtle forms that are better adapted to the anti-discrimination measures adopted by the State and more difficult to prove when complaints are raised.

A final essential element to consider with this definition concerns the intention of discrimination. In fact, both individuals and institutions may be acting in good faith when they declare that they did not deliberately seek to harm one group or another. We should therefore avoid wasting time trying to demonstrate the intention of the perpetrator and instead focus only on the material and symbolic effects of practices, decisions and behaviours impacting the groups explicitly named in Article 10:

“Every person has a right to full and equal recognition and exercise of his human rights and freedoms, without distinction, exclusion or preference based on race, colour, sex, gender identity or expression, pregnancy, sexual orientation, civil status, age except as provided by law, religion, political convictions, language, ethnic or national origin, social condition, a handicap or the use of any means to palliate a handicap.” (Charter of Human Rights and Freedoms, C-12)

That said, it is now important to ask what concrete steps we need to take to provide a sufficiently convincing demonstration that employment discrimination does indeed exist against the minority groups under review. We will return to this later, but it seems pointless to believe that a simple quantitative inquiry could provide such a demonstration. Though it is necessary to quantify the extent of the gap, that alone would be insufficient since we must also expose the practices, policies, decisions and behaviours of the main actors encountered throughout one’s professional career, whose combined impact explains the representative differences between the groups. In most cases, it would be false to claim that the differences can be explained, for example, by a particular decision made by an individual or institution. No one obstacle is insurmountable, but the cumulative effect of obstacles can significantly limit the probability of the members of some groups obtaining and keeping certain jobs, even without considering the issue of privileges (Kimmel and Ferber, 2003) that members of other groups may obtain in their search for a job and consequently, their likelihood of keeping a job.² The analysis will be complicated by the need to study the practices of a significant number of actors, using knowledge from

2 Although this is not the subject of this chapter, the fight against discrimination in access to employment and during employment is almost entirely focused on the elements that have a negative impact on members of certain groups. However, it is possible to imagine that certain practices, policies, decisions or behaviours will have a positive impact on members of certain groups without directly harming other groups (e.g. a worker who recommends his own son for a job is not asking his supervisor to neglect the consideration of other candidates). Therefore, at least theoretically, even if we manage to eliminate all the obstacles encountered throughout one’s career, we could still observe more or less pronounced gaps between various groups in the labour market because of these privileges.

a variety of fields such as law, psychology, sociology, etc., to yield outcomes capable of formulating a broad enough strategy to bridge the gap.

Chicha-Pontbriand (1989, p. 85) explained how the presence of systemic discrimination in the labour market was identified and how it works:

“The examination of job-distribution mechanisms allowed us to identify the main characteristics of the process that results in wide and persistent inequality for the members of the target groups. In particular, we found that this process was characterized by continuous interaction between the various participants in the labour market, thereby including both individuals and institutions.”

The gendered analysis conducted by Chicha (2009) of the labour market integration of racialized immigrants illustrates that the discrimination affecting them is often inextricably combined with other more general obstacles that affect, for example, all women or all immigrants. She therefore classified the main obstacles encountered by racialized immigrant professionals into four categories: (1) the process of recognition of foreign diplomas; (2) the process of professional reorientation; (3) the immigrant family unit strategy; and (4) the practices, decisions and behaviours of employers that significantly affect their labour market integration. It is therefore important to note the power dynamics that exist and seem to persist in the labour market integration of educated, racialized immigrants in the Montreal region. Through the combination of several of the aforementioned factors, systemic discrimination at work (Chicha-Pontbriand, 1989), combined with the intersectional approach of Crenshaw (1993) allows us to investigate the various experience and issues affecting people with these characteristics. The concepts of microaggressions in everyday life (Sue, 2010; Sue et al., 2007) as well as blatant or subtle racism (Van Laer and Janssens, 2011; Bonilla-Silva, 2006) provide a better understanding of the types of experience that can exclude certain individuals from different spheres of life.

As Chicha (2009) points out for highly educated immigrant women, freeing oneself from overqualification does not guarantee full integration, because as Messing (2016) stresses, labour market integration must be understood from a decent work perspective that does not call into question the physical and psychological integrity of workers over time. In fact, microaggressions, notably on a daily basis over a long period of time, influence workplace well-being, as Sue (2010, p. 214) describes:

“Being exposed to environments that contain racial, gender, and sexual-orientation microaggressions ... has major psychological consequences. In her work with employees who experience chronic microassaults, microinsults, and microinvalidations, Root (2003) has identified ten clusters of the most common symptoms likely to emerge in marginalized employees.”

The possible psychological consequences are discussed later in this chapter. The current research aims to uncover whether racialized immigrant women

working in the Montreal region have experienced microaggressions, blatant racism or subtle racism. If so, what was the nature of these incidents, who were the protagonists, and what was the context?

From blatant to subtle racism

The expressions (attitudes, behaviours, decisions) and experience (emotions, introspection and the meaning they have for an individual) of racism and sexism are concepts that have evolved over time (Bonilla-Silva, 2006; Roberson and Block, 2001). “Old-fashioned” racism resulted in rules that formally forbade or limited the rights in particular of black people to participate in certain activities (e.g. reserved seats on buses, interracial marriage, etc.). This type of racism has evolved into a more “modern”, more “subtle” racism whose proponents claim to be rational in nature (Bonilla-Silva, 2006). Actions that are deemed racist still exist, but in different forms (Van Laer and Janssens, 2011; Bonilla-Silva, 2006; Roberson and Block, 2001). These so-called “rational” expressions are more veiled or hidden, less explicit and less easily identifiable (Bonilla-Silva, 2006; Agocs, 2004; Roberson and Block, 2001) and, as a result, more difficult to denounce (Tadlaoui, 2003).

The typology of Bonilla-Silva

Bonilla-Silva (2006) explains that subtle (or modern) racism is easily identified when an individual says, “I am not racist, but ...”. In this formulation, the individual justifies – after the *but* – statements that are racist in nature. This particular wording, which Bonilla-Silva contends can lead to a veritable rhetorical maze, sustains the idea that the problem stems from the inability of “modern racists” to recognize their racism (Bonilla-Silva, 2006). Bonilla-Silva presents a typology of four strategies that a “modern racist” may use to justify discrimination:

► **Table 1. Four strategies of modern/subtle racists, according to Bonilla-Silva (2006)**

Type of strategy	Explanation
Abstract liberalism	To rationalize their point, individuals emphasize the fact that a person, regardless of the “colour” of their skin, has the same chances of success in an environment where “free competition” exists. They will therefore ferociously oppose any affirmative-action policies they view as “reverse discrimination” by claiming preferential treatment of certain groups to the detriment of others.
Naturalization	To rationalize their racist point, individuals will insist that racial segregation is a natural phenomenon that should not be questioned. Concretely, the differences between groups are real and not the result of a social construct, and individuals tend to gravitate toward one another based on these observed physical differences.
Cultural	Depending on the individual, the inequality between groups that was once explained by biological factors (e.g. certain groups are lazier/less inclined to work because they come from warmer climates) can further be explained by cultural characteristics (a different work ethic and decreased emphasis on effort, accountability, etc., would be taught to the children of certain groups).
Minimization	Individuals suggest that discrimination is no longer a key factor affecting the chances of success of minority groups; rather, members of these groups have become “hypersensitive” to issues of race. They “play the race card as an excuse” or “play the unpopular race card” to make members of dominant groups feel guilty. ^a

^a Related to this strategy of minimization, we would add the equally powerful and common strategy of ridiculing, to silence the victims of racism and their allies. Take for example the evolution of the concept of “woke” (or “wide awake”), which initially, in the mid-19th century, was a positive reference to Americans opposed to slavery (Sobande, 2019) and was later used in a more general sense to refer to people concerned with social inequality and its impact on members of various groups. In Canada, the term “woke” has in recent years become a way of ridiculing anti-racist activists and their allies. Another example is the mocking of feminists by referring to them as “feminazis” (Descarries, 2005). These widespread denigration campaigns could incite many people to disassociate from progressive movements in order to avoid becoming similar targets of mockery (Poitras, 2019).

The typology of Van Laer and Janssens

Authors Van Laer and Janssens (2011) consider that “subtly racist” comments, while often unintentional, accurately reflect the power structure of a given society that normalizes the hegemony of “us” over “them”.

► **Table 2. Four processes that indicate the presence of subtle racism, according to Van Laer and Janssens (2011)**

Type of process	Explanation
Normalization	It exposes the differences between the racialized person and the person judging the racialized person (e.g. “It’s normal to be shy and reserved when you’re Asian; that’s why they’re not as involved in political parties”).
Legitimization of the individual	This involves complimenting people by disassociating them from socially marginalized groups (e.g. “You’re really meticulous in your work for a black person”).
Legitimization of the individual while still viewing the individual as the “Other”	The presence of the professional is desired because of their ethnic origins, but they are denied the use of their professional competencies (e.g. attempting to expand into Asian markets, Asian employees are hired). These people will occupy positions primarily related to business objectives (“employment ghettos” or “window dressing”). They are often hired because of who they are or what they represent, rather than for their professional skills.
Naturalization	Statements that demonstrate inconsistencies between the official line of a majority group that appears open to diversity and their behaviours, attitudes, decisions and intolerant statements regarding diversity (e.g. “We are open to diversity, but we treat all of our employees the same way, so we do not wish to make any accommodations related to religion”).

Microaggressions

The experience of “racial microaggressions” is defined by Sue (2010, p. 24) as: “brief, everyday exchanges that send denigrating messages to certain individuals because of their group membership (people of color, women or LGBTs)”.

Microaggressions can be verbal, nonverbal or environmental, intentional or not, and seem trivial. Still, according to Sue et al. (2007), they result in hostile, unkind or negative attacks against racialized people.

Sue (2010) presents numerous examples to illustrate the concept of microaggression related to gender, race or sexual orientation:

► **Table 3. Examples of microaggression, according to Sue (2010, pp. 32–35)**

Themes	Microaggression	Message conveyed
Colour blindness A declaration by a white person who does not want to recognize the concept of “race”.	“The only race is the human race.” “When I look at you, I don’t see your colour.”	Denying the individual as a racial being. Denying the racial experience of a person of colour.
Alien in one’s own land When we take for granted that North Americans from Asian or Latin American backgrounds were born elsewhere.	“Where are you from?” “Where were you born?” “You speak English very well.”	You are not from here. You are a foreigner.
Criminality or assumption of criminal status A person of colour is presumed to be dangerous, a criminal or a deviant based on their race.	A store owner follows a customer of colour around the store. A white person waits for the next elevator after seeing a person of colour is on it.	You are going to steal something/You are poor/You are not one of us. You are dangerous/You are going to assault me.

These processes (Van Laer and Janssens) and the strategies used by individuals attempting to justify instances of discrimination (Bonilla-Silva) or incidents of microaggression (Sue), all result in the targeted individuals experiencing social classification. We will now illustrate these concepts with examples of the integration experience of 35 racialized immigrant professional women whom we interviewed.³

The example of racialized professional immigrant women

For each of the immigrants we met, we identified a level of overqualification using a standard measure (Chicha 2009; OCDE, 2007). Thus, we compared the position occupied when the interview occurred and the level of education normally required for the position in question to the individual’s level of education and the last position occupied in their country of origin before leaving for Canada, all with the help of the National Occupational Classification (NOC).

This allowed us to profile the women with whom we met: Nine of the 35 racialized immigrants are “not overqualified”; 11 are “moderately overqualified”;

³ These candidates participated in a research project conducted in 2007–2008 and led by Chicha on racialized immigrant professional women living in the Greater Montreal region.

and 15 are “highly overqualified” (Bellemare, 2015). In total, 74.3 per cent of the highly educated racialized immigrants we met with are in a moderately or highly overqualified situation.

A few examples to illustrate our point: For those “highly overqualified”, the jobs occupied require no diploma or a high school diploma. For example, Aïcha, who was a pharmacist in Morocco, was a retail salesperson at the time of our interview. The immigrants who were classified as “moderately overqualified” occupied positions in their pre-immigration field but at a lower level of required skills. For example, Yari, who earned a Bachelor of Communications degree in Peru, occupied the position of administrative assistant at the time of our interview. Finally, those “not overqualified” work in the same field and at a job level corresponding to the education obtained in their native countries. For example, Liz, who earned a Bachelor of Nursing degree in Peru, was working as a clinical nurse at the time of our interview.

The following analysis of the results presents incidents illustrating statements, behaviours and decisions that result in microaggression, blatant racism or subtle racism during the labour market integration process.

A multiplicity of actors who feed on the same prejudices and stereotypes


According to Sue et al. (2007), incidents of microaggression can be experienced daily by individuals belonging to diverse target groups (e.g. women, racialized women, LGBTs). The incidents described below occurred in academic or professional environments.

Incidents of subtle racism in school settings

Several racialized immigrant professionals must upgrade their training, in whole or in part, in college or university institutions and may experience microaggressions or subtle racism via the comments, behaviours or decisions of fellow students or teachers.


Fellow students

During their academic careers, racialized immigrant professionals observed certain behaviours among their fellow students that excluded them from the forming of work teams (Chicha, 2009; Germain, 2013). A native of Burundi relates certain attitudes among her colleagues:




It's like ignorance. It's like if we made an effort, there was a guy there, and you tried (she mimics the other person ignoring her by turning away). There were people you couldn't even approach. You arrive – no (laughs). In the group, they don't even know I'm with them. And when the time comes to form groups, oh! That's when people run away from you.” (Keisha)

Sue (2010) considers that such ignorant behaviours illustrate behavioural microaggressions that can make a racialized woman feel invisible. The sense of “invisibility” can also result from the attitude of fellow students who ignore their comments/ideas during group work, as this same interviewee related:




During group work; no, listen; you speak and you speak and it's as if you've said nothing (laughs).” (Keisha)

Certain comments that racialized immigrants remember refer to “blatant” and “subtle” racism (Bonilla-Silva, 2006; Van Laer and Janssens, 2011). For example, Madeleine, originally from Haiti and living in a student residence at the time of the interview, heard one of her fellow residents say:




‘Oh look, a Haitian. They explain and explain, and you don't understand them. They're always like that, these people.’ You're there. OK, am I supposed to be deaf, or what?” (Madeleine)

Other reported comments relate to the “subtle” racism presented in the typology of Van Laer and Janssens (2011). For example, Marilyn reported comments from a fellow student who complimented her while marginalizing her group (Type 2: “Legitimization of the individual”, from Van Laer and Janssens):




You're not like the others; you don't follow us around; you're not annoying. ‘All the others are trying to make friends.’ Trying to make friends with whites. In a subtle way, that's what she was saying to me.” (Marilyn)

Marylin also remembers comments from other students: “She’s good after all. She’s good, that one”, and explains her irritation with that kind of comment:



If you say, ‘that one,’ it’s because you have a stereotype in mind. It’s a false compliment. It really bothers me. It’s not true; it’s hypocrisy.” (Marylin)

These “false compliments” were also observed by another participant:




As soon as you say you’re from the Maghreb, there’s a certain reticence. I don’t know if people trivialize or don’t recognize our diplomas, but I know certain people, especially lately, who are dyed-in-the-wool Quebecers who said, ‘It turns out you have a lot of experience. We didn’t expect that from you.’ But they said it, word for word.” (Wafa)

Thus, through certain attitudes or comments, fellow students can cause experience having the effect of excluding racialized immigrant women who are obliged to reintegrate the academic environment.

Teachers


Discrimination can also come from teachers. Dansereau, Graen and Haga are the precursors of the theory of quality exchanges between superior and subordinate commonly known as “Leader-Member-Exchange” (LMX) (Bolino and Turnley, 2009). This theory proposes that managers, influenced by similarity attraction and social categorization, will develop favourable exchange skills with their *endogroup* (group to which they belong) according to their ethnic origin and gender. Thus, the subordinates from the endogroup will enjoy certain privileges, such as: (1) better career-development opportunities; (2) more communication; (3) greater access to mentoring; and (4) the absence of a feeling of injustice. According to Bowler (2001), this theory can also be applied to the “student-teacher” relationship. Through her academic experience, Marilyn has observed that certain racialized immigrants do not benefit from the same quality of exchange as their classmates. She observed differences in the way a teacher treated students:



Except when I asked questions, the professor pretended not to see me, and when it's someone else, 'Yes? OK, does that answer your question? Yes, OK, good.' And then it's like, 'Oh yes, we'll get to that later.' Either we'll get to it later, or you'll forget the question. Or you ask the question without smiling, neutral, without feeling. As if it's not interesting. 'We'll get to it.'" (Marylin)

Subtle racism in the labour market


Chicha-Pontbriand (1989) explained that certain experience and observations can influence the individual expectations of targeted people and affect their motivation to integrate. Participant Fredeline observed that in the labour market, immigrants are not the only ones who have difficulties with integration. For Fredeline, the under-representation of second- or even third-generation racialized people is a troubling fact:



What bothers me is that the situation persists. Plus, I'm part of a group that continues to endure discrimination, because even the children of Haitians, the second and third generations who are here, all the studies show that their level of employment is two times lower than the average population. That means it's not just a matter of people who arrive without qualifications; it's not because they lack experience in Canada or Quebec; I think they have to face other obstacles to integrate into the work force." (Fredeline)


This example corroborates the idea of expectation proposed by Chicha-Pontbriand (1989), who considered that these observations can forge an unfavourable reality for racialized immigrants and could, in turn, lead these racialized immigrants to adopt certain behaviours to confirm the expectations. Sue (2010, p. 27) considered that under-representation of individuals from the targeted groups in the job market can be seen as “environmental microaggression” and that “evidence of diversity” can affect targeted persons and their perception of the value accorded to them.

Further experience of environmental microaggression may occur when people attempt to integrate into the labour market. From the very first step in the recruitment process, racialized immigrant professional women perceive that employers are not favourable to their candidacy. They hear comments that clearly qualify as subtle racism as defined by Van Laer and Janssens (2011). For example, Fleur and Wafa, both from the Maghreb, were questioned on certain subjects reflecting stereotypes such as related to the wearing of the veil, even though neither of the two racialized immigrants wears one:




'How come you're Muslim and you don't wear the veil?' 'Does your husband beat you?' As if we are mistreated as Muslims. ... Work colleagues. They think because we're women, we can't make decisions. They think as Muslims, we are submissive and beaten. 'Do you wear the veil when you go home? Do you put it on in front of your husband?'" (Fleur)

Wafa is also asked about the situation for women in her native country:




I was the only immigrant there. So not a day went by, when I went to the kitchen to eat, that I didn't get asked questions, especially about my religion. 'What's your religion? Is it true that women over there don't go out? Is it true that they're forced to wear the veil?'" (Wafa)

In those questions, she notices the presence of stereotypes related to her ethnic origin. From those stereotypes, some consider that the repetition, the intonation and the very nature of the comments make them feel their ethnic origin is being judged, which corresponds to Type 1 of the typology of Van Laer and Janssens (2011). For example, Fleur cites comments about Arab and black men made by a work colleague the day after an evening event:



It was a colleague who had gone to a nightclub; she said it was full of Arabs, full of Blacks. Yes, but she said it spontaneously. It came out. I didn't like that, and she later came over to apologize". (Fleur)

Participant Tasha, a pharmacist in her native country, is bothered by the repeated questions of her technician colleagues:



'Where do you come from; how are things going there economically; why did you come here?' Yes. They ask me all kinds of questions. 'Why did you come here if you're a pharmacist; why are you working here as a technician now?' And I have to retell the story about why I can't be a pharmacist here, why I have to start over as a technician or less, why I came. Yes, everything. There are times you can see it in the person's face, their look. Sometimes there are words, statements that bother us, but yes, they see us as topics." (Tasha)

Tasha's example demonstrates the concept of subtle racism explored by Van Laer and Janssens (Type 1: Normalization) whereby "difference" is accentuated.

Escaping denial: the importance of improving systemic analyses by considering microaggressions and their impact

As mentioned earlier, the perspective of victims of microaggressions, a more intangible aspect of discrimination, should never be ignored in the systemic analysis of discrimination because, despite the myriad forms they take and their often subtle nature, such incidents have a seemingly undeniable impact on the daily lives and the psychological well-being of their victims. Among the possible consequences of microassault, and of blatant or subtle racism, Sue (2010, pp. 214–216), referring to Root (2003), lists the following consequences: (1) anxiety (that can provoke "panic attacks"); (2) paranoia (fear of the attack on one's reputation fuelled by false beliefs); (3) depression (feeling fatigue and difficulty performing even simple tasks); (4) sleeping disorders; (5) loss of confidence (second-guessing one's abilities, judgement and decisions); (6) feelings of uselessness (having no value); (7) intrusive cognitions (recurring thoughts); (8) feelings of powerlessness (if the person cannot stop the microassaults); (9) loss of energy (the person's energy is undermined by the emotional and cognitive load of constantly having to manage microaggressions); and (10) increase in the rate of false positives (a constant and continuous feeling of being harassed can lead a person to be wary of society – its members as much as its institutions; the person begins to overgeneralize the harassment they have experienced and attribute it to everyone around them). This greater consideration of microaggressions and their impact obliges us to give back a voice to the victims in the analysis of systemic discrimination. The latter still too often focuses on the numerical under-representation of victim groups and attempts to explain discriminatory impacts by pointing to more formal policies and practices of institutions, even though the definition adopted for systemic discrimination does not distinguish between these formal and informal elements.

Allport, one of the pioneers in the understanding of prejudice, proposed that to improve ethnic relations, prejudice may be addressed through legislation but can also be taught through training, mass media, individual therapy, contact programmes, etc. (Allport, 1954). Since 1954, we have believed that diverse methods have contributed to the evolution of mindsets, knowledge of "the Other" and, as a result, ethnic relations; however, as microaggressions show, conscious and unconscious biases that categorize people as *endogroup* or *exogroup* persist among various protagonists. At the core of microaggression lie prejudices/stereotypes based on skin colour, gender, sexual orientation or various combinations of these. Thus, in terms of the social categorization

expressed intentionally or unintentionally, through attitudes, comments, behaviours or decisions, these experiences of discrimination are real. The potential interventions are infinite.

The idea is to act on several levels to unlearn historical biases and thus demonstrate political will by intervening with all actors who have a role to play, directly or indirectly, in labour market integration processes, beginning with the socialization at a very early age within the family unit or in childcare settings (e.g. daycare centres or day camps), during recreational activities (e.g. television programmes or screen games for children, sports or cultural activities) or at school (e.g. school textbooks, games, activities). It is in the context of daily activities that bias is transmitted; hence the importance of putting in place continuous training programmes for the various actors and within the framework of public policy.

Raising awareness and education from an early age can likely avert certain experiences of microaggressions; however, awareness-raising alone cannot prevent them. Those who handle complaints in academic institutions (teachers, pedagogical counsellors, orientation counsellors, etc.) and in the labour market (human resources counsellors, union representatives, work colleagues, clients/patients/beneficiaries, etc.) must know about the existence of microaggression, blatant and subtle forms of racism, know how to recognize them and intervene appropriately with the protagonists involved. The consequences of these experiences cause both short- and long-term damage, as demonstrated by Sue (2010).

Sue (2010) explains that many workplaces have adopted diversity training or policies condemning “overt” discrimination and harassment at work. These training programmes and policies have concentrated their efforts on clearly sexist acts, and racist or homophobic jokes based on prejudices against colleagues. Sue considers that it is nonetheless difficult to process complaints in the context of: (1) employees of colour who are more closely “supervised” than their white colleagues or (2) ignorance of comments made during meetings by female work colleagues. According to Sue, the endless parade of microassaults creates a hostile and unappealing work environment for minority groups in our society.

Like Forrest (1993), we perceive that research conducted on the actors in the labour force has focused more on the contribution and claims of men compared to those of women. Based on this, we believe, for example, that union organizations must focus more on the needs and claims of salaried minority groups who nowadays represent a growing proportion of the labour market.⁴ In 2021, a union official can confront a union member who has perpetrated a microaggression or a member who has been the target of a microassault

4 Editors’ note: See also Schmidt and Tomei (Chapter 3) and Gagné (Chapter 12) in this volume.

from a colleague, superior, patient/client/beneficiary. The denial or lack of understanding of these experiences can interfere with the representation of union members and even lead to more microaggressions against members of minority groups.

Conclusion

We have provided diverse illustrations of microaggression toward female professionals from minority groups who are trying to integrate into the workforce in an urban Canadian setting. As such, this study demonstrates that racialized professional women, whether they are highly, moderately or not over-qualified, experience various social categorization and exclusion engendered by comments, attitudes, behaviours and decisions from actors in academic environments (teachers, internship supervisors, classmates) and the labour market (recruiters, supervisors, colleagues, clients or patients). At the end of this exploratory study, we observed that these experiences, which appear insignificant in the eyes of their perpetrators, can lead to very real consequences for people from minority groups. These demonstrations of discrimination are real and must be considered as an integral part of a systemic understanding of discrimination. Public policies must take this into consideration and work toward their elimination. Acknowledging their existence and effects must be the first step toward intervening effectively and thereby ending experiences of blatant racism, subtle racism and microaggression directed toward people from minority groups. Attempting to deny these realities has and will have significant societal costs. It is high time to escape denial ... and to build real and lasting relations of trust.

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Part



4

**Exclusion by design and
how to overcome it**

► **The polymorphic conception of systemic discrimination: Unions between discourse and action in Quebec**

Diane Gagné

Introduction

The Quebec system is clearly unique, sometimes even unreasonable: Despite the existence of equality rights, people who are subjected to discrimination do not always see their rights respected. Indeed, when it comes to recognizing the consequences and the victims of discrimination, efforts often fall short, regardless of the attempted remedy. As a result, many workers in traditionally “protected” groups end up in precarious situations, to a point causing fragmentation in the labour market and ruptures among different groups of workers.

The situation creates a space where populist speech reigns and protected individuals feel trapped, despite the will of legislators to protect workers from discrimination in the labour market¹ (Gagné and Dupuis, 2017). Why? Part of the answer lies in questioning the effectiveness of the law (Demers, 1996; Leroy, 2011), but also in the appropriation and implementation (or not) of the norms of equality and equity by the various actors in the labour market (Gagné, 2016). It is therefore necessary to question the merits and shortcomings of the actions taken by these various players.

Although the trade union movement is generally presented as an important actor in the improvement of work and living conditions, it nonetheless contributes, voluntarily or otherwise, to the institutionalization of workplace discrimination through the negotiation of discriminatory clauses in collective agreements. This creates different classes of employees whose working conditions depend on their employment status and/or their hiring date² (Gagné and Dupuis, 2017).

1 In addition to both the Canadian and Quebec Charters of Rights and Freedoms, there are also equality programmes, the Pay Equity Act, and Articles 87.1 and 87.3 of the Labour Standards Act that prohibit clauses allowing disparity in treatment.

2 Since 2018, the Labour Standards Act has prohibited certain clauses based on the date of hiring, but it does not require correction of existing situations. We will return to this later.

Still, to this day, our empirical research indicates that it is perilous to evoke the notion of discrimination to explain the situation because the various actors in the labour market appear averse to the topic. As much as discriminatory clauses contribute to an increase in social inequality, they also multiply the issues to be confronted, such as the potential rupture of intergenerational solidarity and the loss of confidence in institutions. It seems pertinent to evaluate whether unions and traditional labour-relations institutions have failed in their mission to fight discrimination. We therefore ask the following questions: How does the union movement reconcile equality and equity? What are the costs of and obstacles to establishing a standardized form of equality?

To answer these questions, this chapter is structured in several parts. Based on an empirical and socio-legal analysis, the first part will examine the application by labour unions of an equality standard. We will discuss certain challenges unions have faced since the Quebec Charter of Human Rights and Freedoms was adopted in 1975 and entered into effect in 1976. In the second part, we will focus on the three types of discrimination, the laws and legislation that govern them and the impact they have on unions and workers. We will then discuss the constitutionalization of labour law, the difficulties of collective bargaining in the context of austerity, and intra-organizational union division. In the final part, we will explore how union action balances equality and equity.

We will conclude that our research proves that the existence of different and often contradictory conceptions of discrimination, equality and equity not only transforms collective and social relations at work, but also contributes to the persistence of inequality and the difficulty of implementing an equality standard in a unionized environment (Gagné and Dupuis, 2017). The consequences of this are the continued or increased vulnerability of workers; a feeling of impunity among those who adhere to the clauses of disparities in treatment; intra-organizational division; and breaches in group solidarity. We begin with the contextualization of the equality standard.

The application of the equality standard: Between disparities in treatment and gender imbalance in employment

In current times, when the notion of intergenerational equity is invoked in a variety of forums, we must remember that debates around the notion of disparities in treatment were already tumultuous and controversial in Quebec in 1999 during consultation by the Quebec Government and the adoption of Articles 87.1 and 87.3 of the Labour Standards Act. The indictment was contradictory. For some, these clauses saved or even created jobs, while for others they made employment progressively more precarious (Collectif, 1999). That said, issues related to disparities in treatment continue to proliferate.

During our research, involving two independent, public-sector unions (representing support staff, technicians, professionals and teachers) affiliated with the CSN, CSQ, FAE and APTS, and several private-sector unions in the chemical, petrochemical, refining and gas sectors affiliated with UNIFOR (FTQ),³ we observed a refusal to consider disparities in treatment and precariousness as discrimination for two reasons. The first stems from ignorance of the concept of discrimination (Gagné and Dupuis, 2017), and the second, from the judicial invisibility of the people subjected to discrimination (Yerochewski and Gagné, 2017).

In fact, local executives are poorly familiar with the notion of discrimination. Their knowledge is often limited to direct discrimination, while complainants allege indirect discrimination – against the most recently hired and often younger employees (Gagné and Dupuis, 2016) – or systemic discrimination, in which lack of a network or stereotypes become a barrier to hiring (Gagné, 2019). In addition, few local unions accept their share of responsibility for disparities in treatment and the precariousness of employment in negotiated contracts because of the economic and legal contexts of the negotiations and the strong pressures applied by the employer and the common union front (Gagné and Dupuis, 2016). As for gender imbalance, it is not considered discrimination, and unions only broach the subject in the context of the lack of female candidates, illustrating poor evolution of organizational or societal culture (prejudices and stereotypes) (Gagné 2019 and forthcoming). We must therefore conclude that access to unionized jobs that are generally better paid and protected remains precarious and that no collective or concerted effort has been made on the part of the unions. On the contrary, a respondent noted a lack of interest in the problem on the part of the union executive.

We must therefore try to better understand the challenges unions face in applying equality standards. As stated by Legault (2005, 2006), the point is to understand why unions ignore or underestimate the processes of systemic discrimination, since in doing so they not only contribute to redrawing the borders of work relations (Yerochewski and Gagné, 2017), but also weaken the union by compromising fundamental tenets such as democracy (Gagné and Dupuis, 2016). From our research, we understand that the polymorphic conception of discrimination that comes from the blending of different equality standards and models of discrimination contributes to this.

3 CSN: *Confédération des syndicats nationaux* (Confederation of National Trade Unions, Quebec); CSQ: *Centrale des syndicats du Québec* (Central Office of Quebec Trade Unions); FAE: *Fédération autonome de l'enseignement* (Independent Federation of Teachers, Quebec); APTS: *Alliance du personnel professionnel et technique de la santé et des services sociaux* (Alliance of Professional and Technical Staff in Health and Social Services, Quebec); UNIFOR is the merger of the Canadian Auto Workers Union (CAW) and the Communications, Energy and Paperworkers Union of Canada (CEP); FTQ: *Fédération des travailleurs et travailleuses du Québec* (Federation of Quebec Workers).

Differentiated conceptions of discrimination: Three types of discrimination and three standard frameworks⁴

In Quebec, protections against discrimination in the workplace have increased over the last few decades and are now based on a multiplicity of legal sources. Thus, the notion of discrimination in the workplace can be interpreted according to three standard frameworks: The Canadian⁵ and Quebec⁶ Charters of Rights and Freedoms, the Quebec Labour Code⁷ and the Quebec Labour Standards Act⁸.

What is more, the differentiated conception of discrimination does not stop at the protection offered by the different legal standards,⁹ as the definition has been enriched by jurisprudence, chartist doctrine and labour law doctrine. Three types of discrimination emerge: direct discrimination (intention and an illicit motive), indirect discrimination (via prejudicial effects) and systemic discrimination (rules set up as a system).

Three types of discrimination

Direct discrimination refers to social values expressed openly through certain rules and behaviours (e.g. black Americans were excluded from certain public places in the not-too-distant past), while indirect discrimination refers to the social values that are imbued in economic, educational and family institutions. Indirect discrimination is expressed through behaviours that are widely accepted by society, e.g. the non-recognition of credentials and skills acquired abroad, the preference for Canadian work experience, and recruitment through informal social networks, according to Chicha-Pontbriand (1989) and Jackson (2002). Indirect discrimination then takes the form of seemingly neutral policies and practices that nevertheless produce unequal and disadvantageous results for those excluded from the group for which they were designed (Agocs, 2002). Chicha-Pontbriand (1989, p. 85) defines systemic discrimination as “a situation of cumulative and dynamic inequality resulting from the interaction of individual

4 This section is largely inspired by Gagné and Dupuis (2017).

5 The Canadian Charter of Rights and Freedoms, Part I of the Constitutional Law of 1982, consisting of Annex B of the Law 1982 on Canada (R-U), 1982, c 11, art 15, hereinafter referred to as the Canadian Charter.

6 The Charter of Human Rights and Freedoms, L.R.Q., c. C-12, chapter 1.1, hereinafter referred to as the Quebec Charter.

7 Labour Code, L.R.Q., c. C-27, art 47.2.

8 Act Respecting Labour Standards, RLRQ, c N-1.1, art 87.1-87.3 [LNT].

9 Including the Pay Equity Act, L.R.Q., E-12.001 and the Act Respecting Equal Access to Employment in Public Bodies, L.R.Q., c. A. 2.01, and the federal Employment Equity Act, L.C. 1995, ch 44.

or institutional practices, decisions or behaviours that have adverse effects, intended or unintended, on members of targeted groups". It is possible that systemic discrimination will manifest itself in hiring, workplace harassment, lower wages, unemployment, job segregation, limited career progression, etc. (Agocs, 2002). All three types of discrimination can coexist in workplaces.

Three standard frameworks

Each of these frameworks addresses an aspect of protection against discrimination. The Labour Standards Act (Articles 87.1 and 87.3) prohibits disparities in treatment under certain conditions, while the Labour Code (Article 47.2) guarantees equality of treatment in unionized environments. Constitutional and quasi-constitutional law is the cornerstone on which the prohibition against discrimination is based (Gagné and Dupuis, 2017).

These three standard frameworks, with universal coverage, are complemented by laws with specific actions, such as the Pay Equity Act and Equal Access to Employment Programs or federal Employment Equity Programs. The Pay Equity Act is intended to correct salary gaps due to systemic gender-based discrimination against people occupying jobs in "predominantly female" employment categories.¹⁰ Employment Equity Programs are intended to ensure equal access to employment for people from groups that are discriminated against,¹¹ in all types of employment in an organization or business, and when enforced or resulting from a Human Rights Tribunal order "to identify and correct human resource management rules and practices that could potentially exclude or disadvantage people from discriminated groups".¹²

The Charter of Rights and Freedoms: Prohibition of discrimination

Constitutional and quasi-constitutional law – The Canadian Charter of Rights and Freedoms and the Charter of Human Rights and Freedoms – embody the sources of law used to define discrimination. They define discrimination as a distinction that has the effect of destroying or compromising the full protection of, and the benefits offered by the Charter of Human Rights and Freedoms. Section 10 of the Quebec Charter exhaustively defines the prohibited grounds of distinction, while Section 15 of the Canadian Charter accepts analogous grounds (Gagné and Dupuis, 2017).

¹⁰ Article 1 of the Pay Equity Act.

¹¹ That is, according to section 1 of the Act Respecting Equal Access to Employment in Public Bodies, women, persons with disabilities according to the Act [...] Aboriginal persons, persons who are members of a visible minority group by reason of their race or skin colour, and persons whose first language is not English or French and who are members of a group other than the Aboriginal group or a visible minority group.

¹² <https://www.cdpedj.qc.ca/en/our-services/activities-and-services/learn-more-about-equal-access-employment-programs>. To date, the only judgment rendered has been against *Gaz Métropolitain*, now ÉNERGIR; however, nothing prevents employers from being proactive.

The difference between constitutional and quasi-constitutional status is explained not only by the requirement of injury to dignity (a jurisprudential concept used to assess discrimination under the Canadian Charter), but also by the fact that the Canadian Charter of Rights and Freedoms has been a norm entrenched in the Canadian Constitution since 1982. As such, it takes precedence over all federal or provincial laws, protects individuals from all forms of governmental discrimination, and any amendments must follow the constitutional process.

The Charter of Human Rights and Freedoms has quasi-constitutional status, in light of the importance given to this law: all laws passed in Quebec are subordinate to it, although unlike the Canadian Charter, the Quebec Charter can be revised, amended or repealed like all other Quebec laws; and the Quebec Charter governs not only relations between individuals and the State, but also between individuals, including legal persons. It follows that the complaints of alleged discrimination were all filed with the *Commission des droits de la personne et de la jeunesse* (CDPDJ) under s. 10 of the Quebec Charter.

The Labour Standards Act: Disparities in treatment (87.1 and 87.3)

Until June 2018, the Labour Standards Act (LSA) had, since 1999, prohibited an agreement or decree from containing a disparate treatment clause based on hiring date, unless the inequality was resolved within a reasonable period of time. The original purpose of this legal intervention was to prohibit disparate treatment clauses, given their recognized harmful effects (Quebec Ministry of Labour, 1998). These provisions did not prohibit pension or group insurance plans that were differentiated according to the hiring date and legitimized the negotiation of temporary clauses with permanent effects (Gesualdi-Fecteau, 2013). Their role in the fight against discrimination was therefore largely “symbolic”.¹³ With effect of 12 June 2018, certain legislative amendments went into force. Regarding working conditions, the main change concerned the prohibition of differentiated pension plans and benefits based solely on the hiring date. However, existing discriminatory situations were not covered, nor are wage differentials that are resolved over time, unless the parties agree otherwise. Thus, the LSA still does not prohibit the existence of double scales that merge over time or the multiplication of levels within an existing scale (or even demotion to the entry level of this new scale), all measures that are nonetheless discriminatory on the basis of hiring date or employment status.

The Labour Code: Equal treatment (Art. 47.2)

In fact, discrimination according to the Labour Code is interpreted as unequal or different treatment, in a context where the union must not act “in bad faith or in

¹³ Contrary to concrete normative effects that are reflected in observable behaviour, symbolic effects refer to representations and values attributed to standards, in other words, the “implicit ideological impact of the standard” (Demers, 1996, p. 74).

an arbitrary or discriminatory manner, or in a grossly negligent manner toward employees included in a bargaining unit ... whether or not they are members". Consequently, under the Labour Code, the union has an obligation to represent all persons, whether or not they are members of the bargaining unit, impartially, and to the best of its ability. This obligation stems from the monopoly of representation conferred on unions.

Therefore, proof of discrimination requires the demonstration of malicious intent – to disadvantage an individual – or bias on the part of the union. In fact, it is sufficient for the union to show that it acted in good faith, objectively and honestly, after a serious study of the situation, and in consideration of the legitimate interests of the association. Even if the discriminatory effect is unreasonable, court intervention in favour of the employee is unlikely if the decision supports a logical connection to the union duty, if the purpose of the action is deemed commendable, and if a rational connection exists between the purposes and distinctions made by the union. The Supreme Court also stated in the case of *Noël*¹⁴ that the union is not bound by an obligation of result under its duty of representation.

In the union environments studied, this interpretation of the notion of discrimination under s. 47.2 of the Labour Code, which differs from that of s. 10 of the Quebec Charter – in the sense that no necessary link exists with a prohibited ground of discrimination, and that there must be an intention to discriminate – is a source of confusion and explains, in part, the persistence of the disparities in treatment still being negotiated.

Indeed, in the workplaces studied, within the local unions, the disparities in treatment, which in this case may be direct discrimination within the meaning of the Charter, as defined by the corpus of case law, are generally linked to a representation of discrimination that requires malicious intent. Several jurists (Brunelle, Coutu, and Trudeau, 2007; Nadeau, 2010) have identified this blending of rights, which is a major source of confusion, under the heading of “the constitutionalization of labour law”.

Constitutionalization of labour law

The constitutionalization of the law refers to the fact that labour law is bound to evolve under the influence of the Charters. Canadian jurisprudence has evolved under the concept of the hierarchy of rights.¹⁵ This means that labour law, which in its very foundations jealously preserved collective bargaining, is called upon to be converted, under the influence of the Charters of Rights, in such a way as

14 *Noël v. James Bay Energy*, 2001 SCC 39, [2001] 2 RCS 207 [*Noël*].

15 *Syndicat de la fonction publique du Québec v. Québec (Procureur général)*, [2010] 2 R.C.S. 61, par. 39–45. This hierarchy of rights means that one can no longer exclude public laws from collective bargaining processes (Nadeau, 2010).

to create a larger space of individual autonomy or freedom in favour of workers (respect for personal traits). Simply put, it is the subordination of labour law to the Charters of Rights and Freedoms (Brunelle, Coutu, and Trudeau, 2007; Gagné, 2014).

In fact, the socio-political and economic context of austerity and the fight for a zero deficit, as well as the constitutionalization of labour law, form the backdrop for the negotiation of disparate treatment clauses and inequities in the workplace, whether we are referring to the difficulty of achieving gender equality in traditionally male workplaces, to pay equity that is still often a mirage, or to the failure of equality access programmes (Chicha and Charest, 2013). In the course of our various research projects dealing with systemic discrimination, we have noted that, while at first glance the situation of unionized workers appeared to be privileged, we must admit that the ambiguous role of the government and the jurisprudence emanating from the Quebec Court of Appeal, the lack of knowledge and/or the identification of discrimination by reference to direct discrimination, the characteristics of the feminization of jobs and the segregation of jobs confirm that systemic discrimination is a serious and recurring reality. The discriminatory factors and the resistance of the various players indicate a complex situation that is rooted both in the institutions and in the behaviour of those involved.

The question therefore arises: What kind of equality are we talking about? We know that two conceptions of equality collide in the workplaces we studied: equality and equity, which are more or less compatible. All things being unequal, the concept of equity makes it possible to consider obstacles and personal traits to allow people working or wishing to work the same opportunities and the same access to different conditions and services. In this case, the term “substantive” or “factual” equality (equity) is used in contrast to formal equality. Formal equality values identical treatment, while equity implies differential treatment. It is therefore not preferential treatment, and it is not intended to favour the individual, as it does not create or open doors, but allows the individual’s particular needs to be considered to access the same opportunities. In absolute terms, to correct inequities, it would be necessary to remove the barriers, that is to say the causes of inequities in employment, to guarantee universal access to all.

Since the concept of formal equality, such as “one person, one vote” and equal treatment for all, can lead to inequities, injustices and inequalities, the legislator’s intention is to promote equal access, equal opportunities, real (*de facto*) equality, i.e. fair treatment, despite certain personal traits. This distinct conception of the notions of equality and equity has an impact on its implementation.

Indeed, a clash exists between the legislator’s desire for real or *de facto* equality, taking into account the personal traits of individuals or minority groups, and the more universalist or formal vision of union equality that advocates equal

treatment with all members being equal (one member, one vote) (Gagné and Dupuis, 2017). Hence, the implementation of the right to equality is based on different logics of action. The notion of substantive equality¹⁶ is more inclusive and requires union actors to [re]consider the notion of seniority, a quasi-inalienable right in labour law, when it comes to accommodating an individual, for example. It follows that this right to non-discrimination, as Brunelle (2001) and several others have noted, is infinitely complex to manage, since it confers new powers and duties on the arbitrator, the employer, the union and, we would add, the members. Yet, to this day, such discriminatory clauses are still being negotiated.

Negotiating between precariousness and discrimination in a context of austerity

Ignorance of the law – though no one is supposed to be ignorant of it – is surprising in the settings we studied. What is most troubling is that this is observed everywhere, whether the employer is the State or the private sector. So much so that we find, to this day, that the lack of interest, ignorance and incompetence in applying the equality standard is equally distributed among the employer, the State, the ombudsperson, the unions and the union members.

Union representatives are reluctant to acknowledge their responsibility in the negotiation of discriminatory clauses. They prefer to hide behind commonplaces such as: “We had little leeway or power” (even if this is partly true); “We had a dilemma when it came to choosing between protecting existing or future members”; rather than admitting that other options could have been considered. A few people we met said the disparate treatment clauses may have been unfair, but it was the price to pay for some form of security – a job. Three respondents went so far as to justify themselves by saying that “unfairness is not discrimination”.

The most striking example is this one: The equality standard under the LSA (ss. 87.1 and 87.3) requires that everyone receive their due remuneration without any discrimination, yet in the case of the Laval firefighters (where a collective agreement had led to two different salary scales for firefighters hired before and after 1 July 1998), ignorance and distrust were evident even in the suspicions about the GAPES¹⁷ members and their intentions (Gagné, 2014, p. 509):

16 This notion of substantive equality, in considering the workers in their context, admits the difference between universal law – where everyone has the same rights – and individual rights based on the Charters – where there is recognition that a differential treatment might sometimes be necessary for the protection of minority groups (Coutu, 2007).

17 *Groupe d'action pour l'égalité salariale des pompiers de Laval*, Action Group for Equal Remuneration of the Laval Firefighters – an association created by more junior firefighters in parallel to the union.

“The tensions between non-members and members of GAPES were largely the result of a lack of understanding of the latter’s exclusion by the courts, but also of doubts about the “nobility” of the objectives pursued by the GAPES members (the validity of their intentions was questioned). Indeed, some actions seemed to have much less to do with defending the principle of equality than with a monetary issue (impressions also shared by some members of the executive).”

The question here arises: In what way would asking for money to obtain redress constitute a misuse of the equality standard, prohibiting disparate treatment based on the hiring date?

In practice, the impact of disparate treatment is as substantial as it is rooted in the transformations associated with the metamorphosis of the labour market. We retain three “uncomfortable and harmful” elements¹⁸ related to disparities in treatment. The first, the legislature, through the adoption of various special laws, has undoubtedly put pressure on the negotiation of disparate treatment clauses in favour of the State employer. Second, all the actors involved – the State, the employer, the mediator, the union and union members, and even, according to Sénécal and Brunelle (2015), the appellate courts – demonstrate a lack of understanding of human rights in employment, as well as resistance to the application of the substantive equality standard in the workplaces studied. The result is a high degree of vulnerability for workers whose rights are infringed and a sense of impunity for those who adhere to disparate treatment clauses. Third, the legal challenge to these disparate treatment clauses by unionized victims places unions in the awkward position of having to stand shoulder to shoulder with employers against a minority group of unionized employees demanding respect for their fundamental rights. The creation of the GAPES (a parallel association) among the Laval firefighters is significant in this context (Brunelle, 2002), making internal relations even more complex.

This being the case, when and how is discrimination discussed in the Quebec labour movement? We have to admit that there is little discussion on this topic and when there is, it is with a thousand detours. Timid discussions hide disturbing realities and trigger interventions only in cases of absolute necessity. As a result, union democracy risks becoming a tyranny of democracy, since the law of the majority prevails (one member, one vote), thus increasing tenfold the opportunities for dissatisfaction and intra-organizational division.

Intra-organizational division

The discriminatory effects on newcomers to the labour market cause fracture in intergenerational and social solidarity to such a degree that we are witnessing

¹⁸ Here we share the wording of a respondent (“It’s an uncomfortable and harmful situation”), who rightly expressed his discomfort with the situation resulting from the negotiation of salary disparity clauses among Laval firefighters.

the advent of parallel labour associations (Brunelle, 2002). Recognizing this situation and sacrificing a prevailing theoretical strand in industrial relations, we have validated the hypothesis that an intra-union minority group can form a decision-making level when the executive committee's mission to represent is perceived as deficient (Gagné, 2014). From then on, intra-organizational relations are modified and influence the regulation of work at the micro level (collective agreement) by negotiating or not negotiating discriminatory clauses, and at the macro level (legislator) by advocating for the modification or reinforcement of equality standards.

Regardless of the type of discriminatory situation studied (disparities in treatment, precarious employment or the challenge of gender diversity in the workplace, and whether they are related to ageism, sexism or racism), discrimination creates gaps in the solidarity of the collective. These fractures in union solidarity have multiplied situations of intra-organizational and intergenerational conflict in unionized environments. The intra-union division caused by the existence of discriminatory situations is highly complex, because it creates not one fault line (between the minority and the majority), but often several, since minorities can also be subdivided, thus weakening the union collective (Gagnon, 1998). Similarly, the more or less harmonious relationship that the union movement has with young people, women and new employees in general (employees with atypical status, people with disabilities, minority groups, etc.) is correlated with the questioning of the credibility of union executives and union organizations. Subsequently, on a continuum from worst to best, the heterogeneity of interests and values could take on a subversive character and become a breeding ground for fratricidal ideological struggles. At best, this space, between conciliation and integration, will be able to reconcile labour law and human rights, allowing the individual to live more harmoniously with his or her differences (Gagné, 2014, p. 3).

One relevant illustration of the worst, in terms of intra-organizational conflict, is the liability conferred on unions by the Human Rights Tribunal for the negotiation of disparate treatment clauses and, in particular, the obligation to have union members (including victims) pay a portion of the damages. This provision illustrates an unusual, if not unreasonable, situation. Several members of the unions and executives, targeted by complaints to the CDPDJ, have gone so far as to question the validity and motivations of the victims to assert their rights, reducing them pejoratively to monetary considerations (Gagné, 2014).

In addition, many members of the local, independent and private-sector unions we met are still opposed to accommodation on religious or cultural grounds, in connection with gendered positions, compensation for victims of discrimination and equality access programmes. These are still too often perceived as affirmative action, and the competence of those selected is often underestimated by members. In these circumstances, the lack of intergenerational and cultural equity, the proliferation of precarious employment statuses for non-standard

workers, and the erosion of union representativeness make mobilization difficult and call into question the legitimacy of union organization. It also appears that some sources of tension stem from the difficulty of reconciliation and the lack of recognition of the common interests of the minority workforce within local unions.

Nonetheless, despite a certain intra-organizational division between the “pious” discourse emanating from the national executives, advocating and valuing discrimination-free workplaces, and the cautious discourse – in particular the non-recognition of discrimination other than that described as direct in the local unions studied – it must be acknowledged that, in concrete terms, a number of union actions have enabled significant progress to be made in the fight against discrimination. But then, how does trade union action relate to equality and equity?

Discussion: How to redefine union action between equality and equity?

We have found empirically that disparity of treatment clauses are fundamentally linked to rationalization strategies, that local unions are confronted with divergent interests and have to live with legislation that is more or less adapted to a context where two conceptions of equality clash and do not respond to the same logic of action, not to mention the fact that these disparity of treatment clauses call into question the fundamental principle of equality: “equal pay for equal work”.

Local unions build their actions on discrimination within the space of the “constitutionalization of labour law” and under the influence of the socio-economic and political contexts and the pressures applied by the employer. In these spaces, their bargaining power varies from weak to none.

However, the negotiated changes are not always negative, as demonstrated by the various crusades that have led to the recognition of pay equity, prior learning (training) and same-sex couples, the struggles against disparate treatment and systemic discrimination,¹⁹ etc. In fact, there are numerous tangible actions to counter discrimination.²⁰

The cases that met with the least resistance from union members and the most litigated (grievances) involved discrimination related to disabilities (notion of reasonable accommodation), pregnancy cases and cases related to criminal records and pay equity. The last case brought before the Human Rights

¹⁹ For more information, please refer to the typology of union action in the fight against discrimination developed by Gagné (2014, 2016).

²⁰ Gagné (2014, 2016).

Tribunal²¹ by the ABI union, a case won by the union in May 2018, concerns wage disparity related to the employment status. In this case, appealed by the employer, the union denounced a wage gap of nearly 9 Canadian dollars per hour between regular workers and students who did the same work.

However, since the coming into effect of the Quebec Charter and the CDPDJ and despite complex access,²² whenever union members are dissatisfied, the means made available to them can undermine union democracy. As elsewhere, union democracy is not disembodied from democratic life in Quebec (Nadeau, 2012). It is based on processes of representation, participation and deliberation governed by majority rule. It therefore requires the effective participation of members. To achieve this, following Nadeau (2012), it is recommended to strengthen activism (mobilization), by transforming the union organization and by rebuilding the relations between activists and organizations. This is especially needed since a jurisprudential approach that values the complementarity of rights has not yet been developed. According to Sénécal and Brunelle (2015, p. 490), "Quebec Court of Appeal judges are looking for the *right* answer, which is characteristic of applying the correctness standard of review." As a result, the Court of Appeal appears to be cautious when it comes to recognizing discrimination other than direct discrimination, since it requires an intention to discriminate and the burden of proof then rests on the victim(s), thereby accentuating the opposition between so-called collective and individual rights.

It is embarrassing to see employers and unions stand together in court before a minority group of union members demanding the respect of their fundamental rights. This is why the current legal framework, the dominant representations, the difficult mobilization, the erosion of representativeness as well as the breaches in union solidarity will all have to be considered to correct the current representation deficit. Trade union, union management, union community and State actions must be implemented, because change is not innate. The trade union movement could free itself from the straitjacket of a rather reductive dichotomy by mobilizing a holistic view of the different sources of law.

In the presence of discriminatory clauses, the deficiency in union representation stems from the lack of knowledge of human rights in employment and the resistance to apply the equality standard in the workplaces studied. This lack of knowledge is well distributed among the different actors (the State, the employer, the mediator, the union and the union members). As regards gender imbalance or precarious employment, the issue is more about the invisibility of people who face discrimination, because disadvantaged groups do not have a legal existence (Yerochewski and Gagné, 2017).

21 CDPDJ (*Beaudry et al.*) v. *ABI Inc.* (400-19-159) (002).

22 By "complex access" one understands the fact that all complaints are individual ones. Thus, each union member deeming themselves discriminated against must file a separate complaint with the CDPDJ.

In short, union structures are being challenged by the various issues raised by the question of discrimination – whether it is a question of accommodation, ideological heterogeneity, the various statuses of employees, the modest results of EAPs, the existence of disparate treatment clauses, the multitude of legal sources, the polymorphic conception of discrimination, the feeling of impunity among those who hold disparate treatment clauses, and the cleavage between national, sectoral and local union bodies. In addition, the legal challenge puts unions at odds. All of this is causing changes in the relationship between union members and the union movement. Yet, there is room for the revitalization of unionism, but for this, hesitant discourse must stop.

Conclusion

A frank assessment is that there is rupture between majority and minority union members' interests and that the crumbling of union representativeness endangers worker protection or the containment of the excesses of the capitalist system because it becomes more difficult to maintain social progress. This social progress is defined by the improvement of the living conditions of workers, the protection of fundamental freedoms and by the regulation of group relations that enable a balance of power so as to maintain or guarantee industrial peace. It is at this price that trade union organizations will avoid the questioning of their legitimacy as an institution. We have established that a set of actors contribute to maintaining the processes of systemic discrimination, but we cannot hide the fact that some unions participate directly in the creation of discriminatory standards by negotiating or tolerating clauses of disparate treatment.

The boundaries of union action in relation to discrimination are not watertight or mutually exclusive. Strategies may vary over time, but they do so especially according to the issues and the type of discrimination. The choice will depend on the composition of the workforce, the history of labour relations, the training and experience of union actors and the resources available. In addition, the union negotiators we met claim they have no means of compelling their members or their members' employer to negotiate differently or otherwise, given the union structure. All this contributes to the acceptance of discriminatory clauses. Whereas it should be a bulwark against discrimination, in these circumstances the union movement contributes to fuelling it, as a result of an unfavourable balance of power: fractures are then created within the union movement and the various groups of workers.

It is the missing, or absent, network, the interaction of practices and decisions or behaviours with undesirable effects, whether intended or not, that explain, at least in part, the system (systemic discrimination). It must also be considered, however, that the legislative power, through the adoption of various

special laws, undoubtedly exerts pressure on negotiations in favour of the State employer and makes the presence of disparate treatment clauses legitimate, if not acceptable. This situation raises questions about the effectiveness of anti-discrimination law in unionized workplaces. This has led us to postulate that without State action, little or no change will occur, especially since the Court of Appeal seems to be timid when it comes to recognizing indirect and systemic discrimination, notably because, based on the Civil Code of Quebec such recognition requires the intention to discriminate. At this point, the burden of proof rests with the worker, not to mention that the time limit for the expiry of remedies appears inappropriate – too short – in terms of labour law.

It remains difficult, more than 40 years after the advent of the Quebec Charter of Rights and Freedoms, for the Quebec labour movement to reconcile the visions of constitutional law and labour law when it comes to recognizing the consequences and victims of discrimination in the workplace, because discrimination is still too often assessed in terms of direct discrimination and the sources and remedies in law that should protect workers do not have enough “bite” – and that is quite disturbing!

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► **State restriction of workers' rights to equality, liberty, security and access to justice through employer-tied labour (im)migration programmes: The Canadian example**

**Eugénie Depatie-Pelletier, Hannah Deegan
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Ensuring “equal economic treatment” of foreign workers was identified as an important objective to be included in the ILO mandate¹ as early as the very first annual meeting of the League of Nations in 1919,² and it continues today to be one of its priorities.³ This bears witness to the fact that differential treatment has been, and still is, the reality for foreign workers. In particular, with roots tracing back to slavery, many countries have consolidated non-citizen worker policies that perpetuate systems of unfree labour (Sharma, 2012; Bakan and Stasiulis, 2012; Hastie, 2015; Choudry and Smith, 2016; Thomas, 2016), where “constraints ... are imposed on a person’s ability to leave a particular arrangement – unfreedom at the point of exit” (Barrientos, Kothari, and Phillips, 2013) and where (often non-white) workers are effectively unable to change employers and prevented from quitting abusive work arrangements and avoiding conditions of servitude.⁴ The application to (im)migrants of such employer-tying policies is typically based on workers’ country of citizenship or

1 Allied Nations and Germany, The Treaty of Versailles (1919), Preamble.

2 League of Nations, International Labour Conference, First Annual Meeting, Washington, pp. 132–134, 156–157, Appendix, Report of the Commission on Unemployment, (chapter VI).

3 Examples include International Labour Office, International labour standards: A global approach (2001), pp. 61 and 122; International Labour Organization, Fair Migration – Setting an ILO Agenda. Report of the Director-General, International Labour Conference, 103rd Session, Report I (B) (2014); International Labour Organization, Resolution concerning fair and effective labour migration governance, 106th Session of the International Labour Conference (2017).

4 See in particular the conclusion reached by the Supreme Court of the United States in *Pollock v. Williams* (1944), 322 US 4 (United States Supreme Court) at pp. 17–18: “in general, the defense against oppressive hours, pay, working conditions, or treatment is the right to change employers. When the master can compel and the laborer cannot escape the obligation to go on, there is no power below to redress and no incentive above to relieve a harsh overlordship or unwholesome conditions of work.”

origin,⁵ and consolidates the “segregation” (Sharma, 2006, p. 97) of national labour markets.

This chapter, using mostly Canadian or North American examples, presents key aspects of the historical evolution of the (non-citizen worker) employer-tying policies still often embedded within labour (im)migration programmes; explains why such measures discriminate against (im)migrants and further negate, in particular, workers’ fundamental rights to liberty, security and access to justice in the country; and identifies which reforms to national immigration policies are necessary to ensure minimal “equal economic treatment” of workers recruited abroad.

The consolidation of employer-tied (non-citizen) labour programmes

Following the phasing out of legal slavery, policymakers around the world – and in North America in particular – resorted to numerous measures in order to maintain a supply of employer-tied workers. Initially, for example, it was made a crime for workers to breach their employment contract. Elsewhere, unemployment was criminalized through anti-vagrancy laws. Legal debt-bondage work arrangements (peonage) and systems of forced labour of convicts sometimes further benefited private employers.⁶ For decades, policymakers thus succeeded in preventing a maximum of (typically non-citizen non-white) workers from freely changing or leaving their employers (Stanley, 1992; Cohen, 1976). By the early twentieth century, courts in the United States in particular increasingly became reluctant to enforce such employer-tying policies, possibly as they meanwhile massively applied to workers who had been formally recognized as citizens under the 14th Amendment of the Constitution (1866). In this context, and often initially as war measures, policymakers re-legalized and in certain cases facilitated a variety of employer-tied labour temporary migration and/or immigration programmes, bringing about steady new supplies of unfree labour, particularly benefiting employers in the traditional sectors of natural resource extraction, construction, agricultural work and domestic services (Erickson, 1957; Satzewich, 1988; Hahamovitch, 2003). Today, such policies have been extended to practically all national labour markets and employment sectors; employers (with few exceptions, such as in Canada employers associated with the sex industry) may typically request and be granted from central

⁵ For the place of the anti-racism perspective within the various analytical perspectives on migrant workers’ rights issues, see in particular Eugénie Depatie-Pelletier, *Moving the Temporary Labour Migration Debate to the Fundamentals: Employer/Agent-Bonded Migrant Workers as Victims of State Violations of Human Rights*, CÉRIUM/REDTAC-(im)migration (2015).

⁶ See *Papachristou v. City of Jacksonville* (1972), 405 US 156 (United State Supreme Court) at paras 38–39; William Cohen (1976) at 37–38, 44–47, 54, 59, 139, 143–144, 146; *Clyatt v. United States* (1905), 197 US 207 (United States Supreme Court) at paras 216, 222–223.

governments the privilege of sponsoring and employing non-citizen workers under employer-tying arrangements.⁷

In this context, employer-tying policies refer to a variety of State-implemented obstacles to workers' ability to exit their employment relationship, by associating the act of quitting or losing one's job with risks of one or many State sanctions. In the case of (im)migrant-workers, State sanctions usually take the form of delaying or negating access to legal status consolidation procedures, and/or nullifying the authorization to work/reside in the country.⁸ While employer-tying labour (im)migration schemes of the past primarily relied on the courts to enforce private employer-tying indenture contracts (Bilder, 1996), contemporary State authorities themselves typically impose and enforce, for the benefit of certain employer coalitions, such restrictions on workers' labour market freedom, threatening a State sanction if the work relationship ends.

In Canada for instance, in 2018, the Federal Government imposed upon 84,205 individuals, or 24.8 per cent (Government of Canada, 2019) of the foreign workers admitted into the country, one or more of the following explicit employer-tying measures: employer-tied work authorizations,⁹ employer-tied temporary residence authorizations,¹⁰ State-imposed employer-tying work contracts,¹¹ and employment and placement prohibitions for all Canadian employers/agents except for the worker's recognized employer-sponsor.¹² That same year, hundreds of thousands of other foreign workers in Canada were impacted at least to some degree by one of the following indirect employer-tying measures: employer-dependant access to work permit issuance procedures (Depatie-Pelletier, 2018, section 2.1.2.iii.), employer-dependant access to work permit renewal procedures (Depatie-Pelletier, 2018, section 2.1.1.i.II.), and employer-dependant

7 See for the Canadian example, Immigration and Refugee Protection Regulations SOR/2002-227 (last amended on 2019-06-04) (2019), s. 203 ff.

8 For a detailed account of the various types of measures taken by contemporary governments to tie (im)migrant workers to (a) specific employer(s), see Depatie-Pelletier (2018), section 2.

9 See for a Canadian example the administrative directives imposing on federal agents the issuance of an employer(s)-tied work permit for specific workers: Immigration, Refugee and Citizenship Canada, *Conditions and validity period on work permits (temporary workers)* (2019).

10 See for a Canadian example the administrative directive imposing on federal agents the issuance of employer-tied residence permits to domestic workers of diplomats: Global Affairs Canada, *Hiring a domestic worker and related accreditation program* (2019).

11 See for a Canadian example the contract imposed by the Federal Government on Mexican workers admitted under the Seasonal Agricultural Worker Program: Employment and Social Development Canada, *Contract for the Employment in Canada of Seasonal Agricultural Workers from Mexico – 2019* (2019), s. IX.

12 See for the Canadian example Canada, Immigration and Refugee Protection Act (S.C. 2001, c. 27) (last amended 2018-07-31), ss 124(1)(c) and 125 (a), when combined with s. 203 ff of the Immigration and Refugee Protection Regulations SOR/2002-227. For more on this form of employer-tying policy, see in particular Depatie-Pelletier (2018), section 2.1.2.iii.

access to permanent status recognition procedures (Depatie-Pelletier, 2018, section 2.1.2.iii).

Employer-tying policies: Worker discrimination and labour market segregation



We do not participate in the Canadian culture, all we do is work. I think that ... [Canadians] live differently, but I am not sure how.” (Mexican SAWP worker, Alliston, 2005)¹³

Social scientists have identified specific indicators significantly relevant for studying the socio-economic integration of workers on temporary work permits, such as: freedom of employment; residence in the country; and distribution within workplaces and employment sectors (Hennebry, 2012, pp. 11–12).

Using such indicators, it can be argued that temporary foreign workers from Australia, Brazil, China, France, Germany, India, Ireland, Japan, the Republic of Korea, the United Kingdom and the United States are relatively well-integrated in Canada. Indeed, 92.2 per cent of them are admitted under the Canadian International Mobility Programs (Hennebry, 2012), which are generally associated with open or semi-open work permits¹⁴ and thus allow for a freedom of employment relatively close to that exercised by permanent residents and citizens in Canada. Also, their distribution within the labour market does not present any evident abnormalities (Government of Canada, 2019).

On the contrary, 85.2 per cent of temporary foreign workers from Guatemala, Jamaica, Mexico and the Philippines admitted into Canada in 2018 were subject to the conditions of the Temporary Foreign Worker Program or one of its sub-programmes such as the Seasonal Agricultural Worker Program (SAWP) (Government of Canada, 2019). As such, they are subject in particular, to a general “hiring” and “placement” ban in the country, which effectively prevents them from freely changing employers and employment sectors (Government of Canada, 2019). Such policies consolidate their segregation within the Canadian labour market, and more specifically, allow for the “racialization” of the Canadian agricultural sector (Hennebry, 2012, pp. 11, 15–16):

¹³ Hennebry (2012, p. 20). This study is based on qualitative interviews of temporary foreign workers mostly employed in Ontario within the agricultural industry.

¹⁴ For more on the conceptual distinctions between open/semi-open and closed work permits, see for example Eugénie Depatie-Pelletier, *Production de statistiques démographiques sur les « travailleurs étrangers » au Canada : une mise à jour nécessaire* (M.Sc., Université de Montréal Département de Démographie, 2008) [unpublished].

"This research includes ... nearly 600 standardized questionnaires with agricultural workers in Ontario ... [T]he majority of migrant farm workers surveyed indicated that they typically worked alongside other migrant workers, with less than 0.2 per cent working alongside Canadian workers. ... As Satzewich (1991, 51) notes, racialization can be understood as a mechanism that excludes people from full entry and participation in society. The ... SAWP and the LSPP serve this function by ... creating structures that control migrant workers and separate them from domestic workers."

Not surprisingly, this study of (im)migrant agricultural workers' integration concluded that "Canada does not score particularly high (6.5 out of 24) on the Labour Migrant Integration Scale for its migrant farm workers" (Hennebry, 2012, pp. 31–32).

Since such a regime grants employers the privilege of deciding the characteristics and the countries of origin of the workers admitted into the country, to some extent,¹⁵ industries other than agriculture have also become characterized by a process of "racialization". In particular, the care and hospitality sectors have been characterized by the international recruitment and employment of workers from the Philippines – leading certain social scientists to refer to care work in Canada as "racialized feminized work" (Krahn, 2014, p. 53).

Research results have further demonstrated key similarities between the situation of non-white workers under current Canadian employer-tying (im)migration regimes and under the Apartheid system historically enforced in South Africa (Paz Ramirez, 2015, pp. 15–17), as well as conditions legally considered, in international law, equivalent to slavery.¹⁶

Employer-tying policies: Restriction of workers' rights to liberty, security and justice

Such unequal – yet lawful – treatment, experienced by employer-tied (im)migrant workers in Canada and elsewhere, more precisely reveals States' unequal respect of their fundamental rights to liberty, security, and access to justice in the country.

In the past century, State obstacles to workers' right to freely change employers have been declared by courts – particularly in the United States – to be a violation

¹⁵ On this issue, see in particular Depatie-Pelletier (2018), section 2.1.2.i.iv; see also Ontario Human Rights Commission, Position Statement – Discrimination on the basis of sex in recruitment for the Seasonal Agricultural Workers Program, Ontario Human Rights Commission (2014).

¹⁶ See in particular Eugénie Depatie-Pelletier, "Under legal practices similar to slavery according to the U.N. Convention: Canada's "non white" "temporary" foreign workers in "low-skilled" occupations" (paper delivered at the 10th National Metropolis Conference, Halifax, 5 April 2008).

of their fundamental right not to be held in servitude.¹⁷ However, it was only in 2006, possibly for the first time in history, that an employer-tying policy specifically applicable to legal migrant workers – the issuance of employer-tied work permits – was declared an unjustified violation of workers’ liberty-implied right to resign.¹⁸ In this historical decision, the judges of the Supreme Court of Israel unanimously declared the policy unconstitutional, concluding that “the foreign worker has become his employer’s serf ... and that the restrictive arrangement has created a modern form of slavery”.¹⁹ Such legal reasonings are relevant to any liberty-protecting legal framework, including the *Canadian Charter of Rights and Freedoms*, which guarantees the liberty-based right to make fundamental choices (Depatie-Pelletier, 2018, section 3.4), as well as the liberty-based right to freedom of movement in the country (Depatie-Pelletier, 2018, section 3.1).

By tying workers to specific employers, employer-tying policies have indeed been shown to negatively impact (im)migrant workers’ fundamental right to physical liberty or mobility in the country – as illustrated by the following example:



My former employer in Ontario wanted to make sure that we will not get in trouble on our days off, so he wrote down on a paper how far away from the farm we were allowed to go. ... He even gave us the instructions written in Spanish and put them on the wall in the living room. You feel like the house is a prison with no bars.” (Paz Ramirez, 2015, p. 14)

Furthermore, employer-tying policies also restrict workers’ fundamental right to physical and psychological integrity, guaranteed by the right to security of the person;²⁰ workers’ legal dependency on their employer inhibits their capacity to request a safe work environment and/or timely assistance in case of

¹⁷ James Gray Pope, “Contract, Race, and Freedom of Labor in the Constitutional Law of ‘Involuntary Servitude’” (2010) 119:7 Yale L.J. 1474 at 1478; *Pollock v. Williams* (1944), 322 US 4 (United States Supreme Court); *Shaw v. Fisher* (1920) 102 S.E. 325, 113 S.C. 287.

¹⁸ *Kav LaOved Worker’s Hotline v. Government of Israel* (2006), 1 IsrLR 4542/02; HCJ 4542/02 (Supreme Court of Israel) at para 32.

¹⁹ *Kav LaOved Worker’s Hotline v. Government of Israel* (2006) at 314.

²⁰ See *Carter v. Canada (Attorney General)*, 2015 SCC 5 [Carter]; *Rodriguez v. British Columbia (Attorney General)*, [1993] 3 S.C.R. 519; *R. v. Morgentaler*, [1988] 1 S.C.R. 30 [Morgentaler]; A.C. Manitoba (Director of Child and Family Services), 2009 SCC 30; *R. v. Monney*, [1999] 1 S.C.R. 652 at para 55; *Chaoulli*; *R. v. Parker*, 49 O.R. (3d) 481 (C.A.); *Bedford*; *R. v. Michaud*, 2015 ONCA 585; G.(J.) at paras 59–60.

professional illness, work accident or health issue.²¹ The manner in which employer-tied labour (im)migration schemes treat (im)migrant workers – arguably more like disposable commodities than human beings – has also been linked to radical consequences for the mental health of workers (Depatie-Pelletier, 2018, section 3.3).

In the case of indebted employer-sponsored workers who too often arrive in the country only to discover that the job for which they secured an authorization no longer exists or never existed (Galerand, Gallié, and Gobeil, 2015), as well as of those who must escape appalling conditions imposed upon them by their State-assigned employer, there is the additional pressure of engaging in irregular work (Basok and Bélanger, 2016, p. 156) and facing the high risks of suffering bodily and mental harm at the hands of human traffickers.²²

Finally, employer-tying policies additionally create obstacles to workers' exercise of their fundamental right to access to justice in the country and, thus, to protection under the law (Depatie-Pelletier, 2018, section 3.5). Abused employer-tied (im)migrant workers cannot access the host country's courts to seek reparation without facing a high risk of losing their employment and, therefore, losing their authorization to work and reside in the country – whether temporarily or permanently. It has been acknowledged by Canadian courts and tribunals that employer-tied workers appear to forgo pursuing legal action for a violation of their rights.²³ In fact, the threat of State sanctions attached to exercising a legal recourse against one's employer is so effective that workers even refrain from merely seeking legal information.²⁴

21 See in particular Depatie-Pelletier (2018), section 3.2. See also Bukola Salami, Salima Meherali and Azeez Salami, "The health of temporary foreign workers in Canada: a scoping review" (2015) 106:8 Can J Public Health e546 [Salami, Meherali and Salami]; Kerry Preibisch and Jenna Hennebray, "Temporary migration, chronic impacts: International migrant worker health in Canada" (2011) 183:9 Can Med Assoc J. 1033; Pysklywee *et al.*, "Doctors within borders: meeting the health care needs of migrant farm workers in Canada" (2011) 183:9 Can Med Assoc J 1039. Gerardo Otero and Kerry Preibisch, "Farmworker Health and Safety: Challenges for British Columbia" 2010 (British Columbia: WorkSafeBC).

22 Madhu, "The Treatment and Distress of Caregivers in Canada from Foreign Countries", CanadaUpdates (15 September 2016) at 18; *PN v. FR and another (No. 2)*, 2015 BCHRT 60.

23 *Fraser v. Canada (Attorney General)*, 2005 CanLII 47783 (ON SC) at paras 116 – 119; *Travailleurs et travailleuses unis de l'alimentation et du commerce, section locale 501 c. L'Écuyer*, 2010 QCCRT 191 (CanLII), at paras 174 and 177; *Monrose v. Double Diamond Acres Limited* (2013), HRTO 1273 at paras 11, 55, 58–59, 61.

24 See for example: The Alberta Federation of Labour, *Temporary Foreign Workers: Alberta's disposable workforce*, November 2007; Migrant Workers Centre, *Envisioning Justice for Migrant Workers: A Legal Needs Assessment*, March 2018.

Foreign worker integration allowing for “equal economic treatment”



The Canadian government should provide more support to us ... that Canadian laws also apply to us.” (Mexican SAWP worker, Dorchester, 2008) (Hennebry, 2012, p. 27)

Authorities may or may not be sufficiently aware of the negative impact associated with the consolidation of an underclass of (unfree) residents with respect to the general working conditions (Costa, 2016) and social peace within their national territories (Sutherland, 2013; Hernandez, 2014). In any event, to allow for State-based “equal economic treatment” of (im)migrant workers, the implementation of a series of alternative labour (im)migration measures is needed: unbiased government-run and government-funded (im)migrant worker sponsorship programmes, issuance of temporary but open work authorizations, independent access to legal status renewal procedures for foreign workers, criminalization of the offering of employer-tying work arrangements, government-run and government-funded unbiased work inspection and job (re-)placement services, as well as government-funded unbiased community integration services (Depatie-Pelletier, 2018, section 4). Moreover, to fully ensure workers’ rights to psychological integrity and access to justice (keys to workers’ equal economic treatment), it is also necessary for States to recognize workers’ rights to family unification upon arrival and to give access to permanent legal status procedures.²⁵

In conclusion, while foreign worker admission policies are often presented mainly as a solution to temporary labour shortages, their long history and growing proliferation confirm that neither the labour shortages nor the presence of these foreign workers are in fact temporary. Rather, foreign workers are increasingly encouraged to come and work in all sectors of national economies, with countless companies relying on the influx of such workers. Keeping foreign workers in a state of unfreedom, however, prevents them from exercising an equal or even minimal form of “economic” citizenship. Legally bound to their employer, foreign workers are denied the leverage required to request due payment, legal breaks from work and rest days, or even safe working conditions.

²⁵ For more details on this, see in particular Eugénie Depatie-Pelletier, *Judicial Review and Temporary Labour Migration Programs Declared a “Modern Form of Slavery”: State Restrictions of (Im)migrant Workers’ Right to Liberty and Security (Not to Be Held Under Servitude) Through Employer-Tying Policies – Initial Submission* (LL.D., Université de Montréal Faculté de droit, 2016) [unpublished], sections 5 and 6; see also Depatie-Pelletier (2018) at 520 ff. and Hennebry (2012), pp. 34–35.

If States are to effectively protect the “equal economic treatment” of all workers and thus the integrity of a free and inclusive, non-segregated labour market, alternatives to employer-tying measures will have to be implemented within labour (im)migration programmes.

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Chapter 14.

► Who is a “migrant” in diverse societies? Blurred concepts and their policy implications

Christiane Kuptsch and Fabiola Mieres

Introduction

In recent years, the number of international migrants has grown and we have witnessed a situation of unprecedented complexity in migration flows, with a rise in both inter- and intra-regional migration between countries at different income levels, including within Asia and Africa (ILO, 2014, pp. 9–10; UNDESA, 2017). Even those observers who challenge the idea that there has been a *global* increase in the volume, diversity and geographical scope of migration acknowledge that people are leaving a much wider range of countries than ever before, going to places where power and wealth have become concentrated, for example the “new migration hubs” in Europe, the Gulf and Asia (Czaika and de Haas, 2015, p. 314).

In host countries where immigration used to be from a limited number of origin countries (often for historical reasons or based on specific agreements), it now has many more sources. More nations and communities are having to address compounded levels of the cultural diversity that stems from global migration. In urban areas in particular, people from all over the world live together. For example, large North American and Western European agglomerations are characterized by the co-existence of numerous ethnic groups, a situation that Vertovec (2007) has termed “super-diversity” based on his research in the city of London. New York, Los Angeles, Toronto, Amsterdam and Brussels have all become “majority-minority cities” where there is no longer a dominant ethnic or racial majority group (Crul, 2016, p. 57).

Parallel to the changing dynamics that stem from migration flows into cities (Sassen, 1991) and other regions within countries, we are witnessing transformations in societies through the incorporation of refugees, which in recent years have been prominent in the media due to their “crisis” nature constructed by different actors (Bhabha, 2018). Migrants and refugees have shown us that migration can be “mixed” in several ways as motivations to move change, a combination of choice and compulsion is at play, and people may find themselves in “mixed communities” either through travel or at destination (van Hear, 2009).

Despite the distinct normative body that covers and differentiates both movements, the life experience of mobile people, the economic and social reality in the countries that host them and the policies that try to embrace them are far from being simple. In this context, and in increasingly diverse societies, what are the consequences for someone to be labelled a “migrant”?

This chapter explores the complexity of labelling practices that result in conceptual blurriness of consequence for migrants and refugees, as well as for the very nature of policymaking. By looking at specific regulations and definitions in selected European countries, and reflecting on the “migration/refugee crisis”, the chapter is structured as follows:

First, we analyse how the blurriness of concepts comes into place by looking at notions of “mobile people”, “settled migrants” and whether “classifying people” for statistical and policy purposes can become a tedious enterprise. Second, we move on to the analysis of why semantics matter: we trace the origins that have enabled blurriness between “migrants” and “refugees” to arise and reflect on the current use in populist discourse of different terms. The concluding section looks to the future with ideas for mainstreaming integration policies and ends with reflections on the impacts on future research.

Blurred concepts

Mobile people

In layman's terms, a “**migrant**” is usually associated with the concept of mobility: there are “migratory birds”, and when electronic data is transferred from one computer storage system to another, this is also called “migration”. A migrant is a person who is on the move or has moved from one place to another.

Indeed, the International Organization for Migration (IOM) defines a migrant as “any person who is moving or has moved across an international border or within a State away from his/her habitual place of residence, regardless of (1) the person's legal status; (2) whether the movement is voluntary or involuntary; (3) what the causes for the movement are; or (4) what the length of the stay is” (IOM, 2019, n.p.).

The United Nations Department of Economic and Social Affairs (UNDESA) points out that “there is no formal legal definition of an international migrant, [although] most experts agree that an international migrant is someone who changes his or her country of usual residence, irrespective of the reason for migration or legal status. Generally, a distinction is made between short-term or temporary migration, covering movements with a duration between three and 12 months, and long-term or permanent migration, referring to a change of country of residence for a duration of one year or more” (UN, 2019, n.p.).

Under both these definitions, all refugees are migrants. However, not all migrants are necessarily refugees as is highlighted in the definition provided by the United Nations High Commissioner for Refugees (UNHCR), according to which “**Refugees** are persons who are outside their country of origin for reasons of feared persecution, conflict, generalized violence, or other circumstances that have seriously disturbed public order and, as a result, require international protection. The refugee definition can be found in the 1951 Convention and regional refugee instruments, as well as UNHCR’s Statute” (UN, 2019, n.p.).

Despite this distinction, which stresses the particular protection needs of refugees, the terms “refugee” and “migrant” are often used interchangeably by the general public, including in the media and by politicians. Some activists and researchers argue that there should be no distinction between migrants and refugees, to prevent discrimination among migrant groups so that everyone would be treated in their own right and individual capacity. They call for an “inclusivist” as opposed to a “residualist definition of migrants”¹. This appeal challenges, in particular, the practice of making quick assumptions about persons from “safe countries” of origin who might not be granted refugee status on account of such conjecture.

In this context another concept has appeared in public discourse, namely the “economic refugee”, further contributing to conceptual fuzziness. While in most contexts the term “**economic refugee**” evokes notions of “constraint” and “survival” – wherein “economic refugees” are portrayed as poverty-stricken people who are forced to leave their home country for lack of opportunities to earn a living – occasionally this term is used to label any person in search of better job prospects and higher living standards elsewhere. Thus Investopedia, a website focusing on financial education and analysis, states: “An example of an economic refugee would be a computer programmer who makes a minimal income in his or her home country and emigrates to find a substantially higher wage and improved standard of living” (Investopedia, 2017, n.p.). For the ILO, such a computer programmer would squarely fall under the definition of a “**migrant for employment**” or “**migrant worker**”, elsewhere also labelled “**labour migrant**”².

It should be noted that the situation of said computer programmer differs dramatically from the African “economic refugees” in South Africa who lack employment opportunities (Maharaj, 2001) or from some people from Central America who might not qualify as “traditional refugees” (see Harris, 1993, for a legal analysis in the context of the United States).

1 See for example <https://meaningofmigrants.org>.

2 See for example Article 11 of ILO Convention No. 97 on Migration for Employment (revised 1949), and Article 11 of ILO Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143).

Settled migrants

Demographers claim that migration constitutes the “third” demographic variable, but unlike “births” and “deaths”, migration is not a unique event but a continuous process across time and space (Skeldon, 2012, p. 230). This further complicates definitions.

As seen in the UN (DESA) definition above, distinctions among migrants are possible according to the length of their stay abroad. Here the notion of “**immigrant**” comes into play. According to the Oxford Dictionary an immigrant is “a person who comes to live permanently in a foreign country”.³ Semantically, the term “immigrant” should thus be employed when referring to someone’s settlement in a new country. The French language is even more subtle in these distinctions – three words are available: “*migrant*”, “*immigrant*” and “*immigré*”. The word “*migrant*” highlights aspects of **mobility**; “*immigrant*” centres on the **process** of changing country of residence; and “*immigré*” refers to the **outcome** of the move, someone who has settled.

In practice, however, the terms “migrant” and “immigrant” are used interchangeably in both written and spoken language. This is also true in references to migrants or immigrants of different “**generations**”. For example, the European Commission’s Directorate for Migration and Home Affairs tends to refer to second-generation “migrants” in a definition developed by the European Migration Network (EMN): “A second generation migrant is a person who was born in and is residing in a country that at least one of their parents previously entered as a migrant” (EC, 2019, n.p.). On the other hand, EUROSTAT, the statistical office of the European Union, prefers the term “immigrants” in dividing the population into three main “migration status” groups based on country of birth of the respondent and of their parents: “Native-born with native background”; “Second-generation immigrants” (native-born population with at least one foreign-born parent); and “First-generation immigrants” (foreign-born population) (EUROSTAT, 2019, n.p.).

The idea of distinguishing between “generations” of immigrants comes from academic debate on the integration of immigrant groups in the United States. The logic of the *ius soli* principle in the US citizenship regulations requires, on the one hand, a discourse of national belonging which is free from religious or other cultural definitional criteria and, on the other hand, a focus on the children of immigrants as full members of society (Schneider, 2016, p. 3 citing Foner and Lucassen, 2012, and Herzog-Punzenberger et al., 2012). (See below for the methodological challenges and political implications of distinguishing between “im/migrant generations”.)

³ See <https://en.oxforddictionaries.com/definition/immigrant>.

In German-speaking European countries, references to generations of im/migrants are uncommon in public discourse, although they exist statistically. The dominant concept is that of “**migration background**”. The general public, the media and official documents in Austria, Germany and Switzerland all speak of “*Menschen mit Migrationshintergrund*” (people with migration background), although the definitions of this concept are not the same in the three countries and have evolved over time. The definitions relate to either nationality or place of birth.

In Austria, “people with migration background” are those whose parents were both born abroad. Statistically, a distinction is made between persons of the first generation, i.e. who were born in a foreign country, and those of the second generation, i.e. persons born in Austria whose parents were both born abroad (Statistik Austria, 2018, n.p.).

In Germany, Article 3 of the Constitution (*Grundgesetz*) and the General Anti-discrimination Law (*Allgemeines Gleichbehandlungsgesetz AGG*) prohibit legal consequences from being linked to the ethnic origin of a person. However, nationality does not figure among the non-discrimination grounds. Since 2016, the term “migration background” refers to people who were not born with German citizenship or whose father or mother did not hold a German passport at birth. Therefore, this definition includes immigrant and non-immigrant foreigners, immigrant and non-immigrant naturalized citizens, “*Spätaussiedler*” (late resettlers = members of German minorities in other (mostly Eastern European) countries who moved to Germany) and the German-born offspring of these groups (Statistisches Bundesamt, 2017).

In Switzerland, the term is defined independently of nationality. For the Swiss Federal Statistical Office, the “population with migration background” includes people of foreign nationality and naturalized Swiss citizens, with the exception of those born in Switzerland to parents both of whom were born in Switzerland; it also includes the Swiss-born whose parents were both born abroad (Schweizerische Eidgenossenschaft, Bundesamt für Statistik, 2019, n.p.) (see table 1).

► **Table 1. Swiss typology of the population according to migration status**

Place of birth	Nationality	Parents' place of birth		
		Both in Switzerland	One in Switzerland One in foreign country	Both in foreign country
Switzerland	Swiss-born	o	o	II
	Naturalized citizen	o	II	II
	Foreigner	o	II	II
Foreign country	Swiss-born	o	o	I
	Naturalized citizen	I	I	I
	Foreigner	I	I	I

Notes:

I Population with migration background 1st generation

II Population with migration background 2nd generation

o Population without migration background

Source: Schweizerische Eidgenossenschaft, Bundesamt für Statistik, 2019.**“Classifying people”: Mission impossible?**

Based on a few select cases, we have shown the complexity of defining “migration background”. The fact that these definitions differ from country to country illustrates how difficult it is to “classify people” for statistical and policy purposes.

In places where more people from different origins come together and which are characterized by a steady inflow of newcomers and/or waves of immigration, the situation becomes even fuzzier. Schneider (2016), for example, points to the case of second-generation young adults who marry partners from their parents' country of origin: their children are both third- and second- generation at the same time, depending on the parent one refers to. He also questions the deeper meaning of the term “second generation” in relation to children from bi-national parents where one of them is not an immigrant (p. 5).

In the United Kingdom, classification is frequently attributed on the basis of **ethnic groups**. For example, the Government has established an “Ethnicity

Facts and Figures”⁴ website presenting data on ethnicity by topic. The data on the British population is based on the 2011 Census with 18 ethnic categories, some of which are quite refined, e.g. distinguishing between “Mixed White and Black Caribbean” and “Mixed White and Black African” people. Other data are less nuanced. For example, there are six categories (Asian, Black, Chinese, Mixed, White, Other) for the civil service workforce. The distinctions on the “Ethnicity Facts and Figures” website seek to be statistically relevant and the data collection is undertaken to inform policy. However, there are recurrent discussions in the United Kingdom about the meaningfulness of the various classifications. For example, in 2015 a former Chairperson of the Commission for Racial Equality suggested that terms such as “Black, Asian and Minority Ethnic” (BAME) should be replaced by “visible minorities” which triggered a public debate, revealing that diversity in Britain had indeed increased so that categorizations had become ever more complicated; that people belonging to different ethnic groups had distinct needs and faced different types of prejudice so that, in terms of combating discrimination, it would not do to simply lump them all together as “non-white”; and that the classifications or labels often did not correspond to the self-image of the people concerned.⁵

In contrast, in France the republican model with its egalitarian view of citizenship excludes data collection on native-born citizens by ethnic, cultural or religious belonging. This has the advantage of not associating native-born French citizens with ethnic stereotypes in the wider societal discourse, but it has the disadvantage of making research and evidence-based policy along any lines of ethnic-cultural distinctions impracticable (Simon, 2003).

As indicated, the definitions of “migration background” in Austria, Germany and Switzerland relate to either nationality or place of birth and not to ethnic belonging. However, Anna Meyer, born and raised in Salzburg or in Zurich and daughter of a couple both born in Germany will likely not be perceived as someone “with migration background” in either Austria or Switzerland, although officially this is her status in both these countries. And in German public perception Hamburg-born schoolgirl Kristine Olsen (daughter of a German mother and a Swedish father) will not have the same “integration needs” as her equally Hamburg-born classmate Ayse Yilmaz (daughter of a German mother and a Turkish father), even if both girls went to the same kindergarten and speak impeccable German. No matter how much she identifies with German society and how educated she will be, Ayse Yilmaz is likely to be confronted with the label “migrant” throughout most of her life in Germany; Kristine Olsen is more likely to escape this “fate”.

4 See https://www.ethnicity-facts-figures.service.gov.uk/?utm_source=rdareport.

5 For a more detailed discussion, please see *The Guardian* of 22 May 2015. <https://www.theguardian.com/commentisfree/2015/may/22/black-asian-minority-ethnic-bame-bme-trevor-phillips-racial-minorities>.

Why semantics matter: Consequences in policy

Tracing the origins of blurring concepts: Migrants, refugees and crisis

Blurring concepts has implications for policymaking as policies are informed by and feed into categories, which need to be “measured”, either to prove “impact” or by creating a discourse around “evidence-based policymaking” which at the same time reproduces certain categories created arbitrarily. In this way, blurring concepts feeds into a vicious circle of policy confusion affecting notions of anti-discrimination and integration. Despite years of innovation in policymaking and evolving realities around “migration states”, scholars and policymakers cannot find consensus on the issue of integration, which remains a nebulous concept (Isaakyan, 2016; Zincone, 2000; Penninx and Martiniello, 2004).

Some scholars argue that “there is nothing objective about definitions of migration: they are the result of state policies, introduced in response to political and economic goals and public attitudes” (Castles, 2000, p. 270). They also point out that it is “always necessary to examine whose interests such definitions serve and to understand that the conceptual landscape these terms construct is embedded within specific historical, political and geographical terrains” (Jones, 2008, p. 762).

In recent years, policy circles have labelled some migration situations a “crisis” and, “refugee crisis” adding another layer of complexity to conceptual definitions, and thereby, to policy goals and developments in policy design. In this section, we reflect on the consequences of these blurring dynamics for policymaking.

In the 1920s, the international refugee protection regime was at its early stages of design, and at that time refugees could move and be admitted to countries as labour migrants (Torpey, 2000). They were helped to become migrants because exile and destitution could be resolved by continued movement. Long (2013) traces the historical and political context by which refugees stopped being migrants and also, following the work by Zetter (1991; 2007) on “labelling” refugees, she shows how the separation of the two terms made refugees’ access to labour markets much more difficult.

When the 1951 Convention on Refugees “drew the line” between refugees and migrants, for a period of a few years during the 1950s, both the UNHCR and NGOs fought to protect the “asylum space”, yet “refugees” became consolidated as a category distinct from “migrants” despite the broad recognition that the line between the two is often relatively arbitrary (Long, 2013, p. 5). Fuzziness and the complexity stemming from it, represented an opportunity for “arbitrariness”,

which we contend is much alive in the present with the issue turning to who is in power to draw that line, and what are the consequences for those subject to the lines drawn.

According to some observers, the historical separation between refugee protection and migration has proved to be counterproductive as it suffered from a “sedentary bias” that exacerbated refugees’ dependency (Long, 2013). At the current juncture, we see the deployment and conflation of “migrants” and “refugees” as reaching a new phase with major implications for policymaking, as they bring back the notion to an ideal position in which connections to territory and stasis have been the organizing principle of societies. Moreover, the complexity and blurriness entailed in this process have been exacerbated by the notion of “crisis”.

The notion of “refugee crisis” and “migration crisis” is abundant in political discourse. It gained prominence notably after the “Syrian refugee crisis” peaked in 2015 as a result of the civil war in the Syrian Arab Republic that began around 2011, causing a growing number of migrants and refugees in Europe by 2014–2015. Around 2016–2018, the large-scale migration from the Bolivarian Republic of Venezuela to various Latin American countries and the United States was called a “Venezuela crisis” leading to global action by international organizations, including the UNHCR and the IOM.

There have been many periods in history when large-scale movement of people in distress has transformed countries and identities around the globe. The word “crisis”, however, should be used with caution. Bhabha’s reflection is useful here: “The language of crisis obscures this time-worn complexity by imposing a fixed and dominant framework – the perceived threat to the already present community – over the many other critical and relevant variables, including the possibility of social and economic enrichment, of local and geopolitical enhancement, of interconnectivity and technological gain” (2018, p. 30).

The language of crisis in the contemporary period has challenged the existing models of integration based on civic-territorial integration, assimilation (with its emphasis on cultural cohesion) and multiculturalism (with the idea of social integration and social protection). The debate has also changed in terms of creating environments that secure sustainable livelihoods to better protect refugees and reflect evolving realities (where in the past, “refugees” in the strict sense were not allowed to work in some countries).

Exclusion from nation-State membership creates refugees and migrants. However, in terms of the way in which refugee and migration policy are crafted, the separation between “refugees” and “migrants” eliminates the humanitarian imperative for States to admit the needy in all but a minority of cases, while at the same time providing opportunities to restrict migration (Long, 2013). Even within these fuzzy categories, the potentials for integration and non-discrimination are variegated and change according to geographical location and historical

context. Integration policies are not only *politically* constructed, but also *socially* constructed within different neighbourhoods, localities and communities. Thus, we see that on top of the politics of layering by aiming to “classify people” according to their nationality, place of birth, ethnicity, migration status or other criteria, perceptions of who counts in each group become blurred, extremely subjective and therefore, politically operational by governments as they believe convenient. Migrants and refugees have at times been used as scapegoats of policy flaws in the field of monetary policy, lack of job creation, and the fact that societies are struggling with high levels of inequality. In this sense, it is easier to “blame the foreigners”.

Another important aspect of blurring concepts to take into account lies in the mix of policy designs that aim to advance one objective, but “unintended consequences” arise.⁶ For example, a country that emphasizes skills as the primary criterion upon which to issue visas will experience a different pattern in the growth and composition of its (im)migrant population from that of a country that constructs a policy-mix based on family reunification and refugee status (Brettell and Hollifield, 2015, p. 6). Issues around integration and non-discrimination are also linked to migration policy effects and effectiveness, which are both contested issues (Czaika and de Haas, 2016). Different rights are awarded to different migration or refugee statuses, causing different allocations to be made in terms of public funding for particular groups, resulting in inherent “discrimination”, even where the rhetoric and moral discourse might champion “integration” and “inclusiveness”.

Forever migrant?

In addition, concepts such as “generations of migrants” and “people with migration background”, which confer the label “migrant” on people who have not themselves experienced migration, raise questions about the inclusiveness of societies. For example, Jones (2008) notes that the term “second generation immigrant” captures nothing of a person’s subjective experience, yet forever fixes the person “in the position of outsider” (p. 762). Similarly, distinctions between temporary and long-term or permanent (im)migrants often have little to do with actual migration processes but instead differentiate migrants according to the host society’s self-perception and the policy objectives of a particular time (Triandafylliou, 2016, p. 6).

Wimmer and Glick-Schiller (2002), in their criticism of “methodological nationalism”, show that migrants are seen as an anomaly in both modern nationalist doctrine and “container models of society”, according to which there is a

⁶ Barry (2002) developed the argument that these “unintended consequences” are intrinsic to the complexity that in liberal democracies one cannot adequately satisfy the requirements of equal treatment and justice under conditions of cultural diversity.

“natural” and static state of the national population. In this State-centred worldview, which appears to be quite prevalent in both politics and some strands of academia, migrants are an exception to the rule of sedentariness within the boundaries of the nation-State; they are perceived as foreigners to the community of shared loyalty towards the State and shared rights guaranteed by that State; a challenge to the nation-building project; moreover, as “outsiders” to the solidarity group, they ought not be part of the social security system so that their integration into the welfare system often has a touch of illegitimacy and abuse (pp. 309–310). In short, migrants are frequently described as political security risks, culturally “Others”, as socially marginalized and an exception to the rule of territorial confinement, including in part of the migration literature (p. 325).

Against this backdrop, to be labelled a “migrant” obviously has major consequences for the so-labelled. As Schneider (2016, p. 2) explains, particularly those who are designated “second- or third-generation migrant” or “with a migration background” while fully identifying with the societies in which they grew up are critical of being associated with an undifferentiated group of “migrants” or with the ethno-cultural background of their parents or grandparents.

Populist discourse: Polysemy and politics

In public discourse, migrants are indeed an undifferentiated group and what is more, “the category ‘migrant’ emerges as polysemic, holding multiple meanings, malleable, restless and, as such, *made to do political work*” (Kunz, 2019, p. 2, emphasis added). The following examples from the United Kingdom and Switzerland illustrate this point.

Populist discourse often purposefully lumps together people in totally different types of situations and calls them “migrants”. Thus, in the 2016 campaign for the “Brexit” popular referendum in which British voters were asked whether the United Kingdom should leave or remain in the European Union (EU), an image was created projecting the United Kingdom as overwhelmed by “Others”, not least because of the EU’s inability to protect its external borders. The British citizen of Pakistani descent, the Polish worker having come to the United Kingdom under EU free movement provisions, and the Syrian refugee in Germany (potentially moving on to the United Kingdom) were all described as “migrants”⁷ while “migrants” were portrayed as security threats. According to Gleese’s analysis in 2019, without Nigel Farage, then leader of the UK Independence Party (UKIP),

⁷ In British public debate it is neither uncommon nor a new trend to conflate migrants with ethnic or religious minorities and with asylum seekers. See Anderson and Blinder (2017) citing Saggar and Drean (2001), Crawley (2009), Beutin et al. (2006), Baker et al. (2008).

so skilfully mixing up situations and labelling everyone as “migrants”, the Brexit referendum might have had a different outcome.⁸

A similar “calculated ambiguity” (Gilroy, 1987) was successfully used in Switzerland in 2014 with the launch of a federal popular initiative “against mass immigration”, which was accepted by a slight majority of the electorate (50.3 per cent). On an earlier occasion, in a 2004 referendum about citizenship legislation, the anti-immigrant Swiss People’s Party had moved the discourse from issues of immigrant integration to immigrant numbers and new migration to Switzerland, and obtained the rejection of the proposed legislation that, *inter alia*, would have permitted the grandchildren of immigrants to obtain Swiss citizenship automatically. In a nation-wide billboard campaign, opponents of liberalizing naturalization put Osama bin Laden’s photo on a Swiss ID card and claimed that if the new law were enacted, Switzerland could be “taken over” by Muslims (Martin, Abella, and Kuptsch, 2006, pp. 119, 202).

The future: Towards inclusive approaches in diverse societies

Integration policies: Towards mainstreaming?

Equality and diversity go hand in hand and policymakers cannot pursue programmes of equal treatment without statistically recording and accommodating features of cultural, ethnic and religious diversity. Recognizing diversity alone is insufficient to tackle socio-economic and political disparities (Meer and Modood, 2016, p. 187). The ultimate goal of “equal treatment” appeals to the moral and ethical imperative by fully embracing notions of justice that include cultural diversity, and public policies and political discourse have consequently been designed to show sensitivity to the identities of minorities and other groups. But in reality blurred concepts, by aiming to distinguish and “classify people”, divide and ultimately discriminate. Underlying these “unintended outcomes” is the idea that public policy can address these concerns, but they are inherently linked to notions of “control” (which in some strands of the migration literature is associated to the idea of “migration management”). As such, people’s destinies – and for generations, in some cases – are tied to how they are perceived and labelled at particular historical junctures.

As a process, the blurring of concepts stems from political and social construction of labelling and conceptual boundaries, but there is also the unintended effect of how different groups of people experience those processes depending on the communities in which they live. Nation-States may concoct

⁸ Anthony Gleese in “Maischberger” (ARD talkshow) on 13 March 2019. On 23 June 2016, the United Kingdom voted to leave the EU by 51.9 per cent to 48.1 per cent.

“classifications” but ongoing dynamics in communities decide different forms and patterns of integration. For example, in the United States the historical tolerance of undocumented migration in states such as California (and linked to seasonal agriculture work) incites a whole set of communities to develop and create their own business, living in fear of deportation but also protected from it through social networks and the building of ties. It is a different scenario from migrant workers in the Gulf for instance, where their circulation within a given country is restricted and they are subject to tight surveillance mechanisms. This is another example of the perpetual role that migration plays in unsettling configurations around political unity and national membership in a number of countries.

Wimmer and Glick Schiller (2002) point to the fact that policymakers, administrations and researchers who look through the lens of “methodological nationalism” tend to perceive anyone belonging to the national people as “integrated” in society by definition (p. 310), regardless of the marginal lifestyles individuals may adopt. Integration policies are for “Others”, for outsiders.

Many European countries offer foreign new arrivals customized integration programmes (such as centralized introduction programmes). These targeted programmes are often small in scale and generally focus on specific entrants such as family immigrants, or refugees. Others with similar needs may fall through the gaps. EU nationals, for instance, are rarely the beneficiaries of integration policies – they come under the EU’s free movement provisions and therefore have a different status than third-country nationals.⁹

Besides these stand-alone integration programmes, policymakers can also strengthen “mainstream policies” such as public employment services and vocational training systems, to provide more inclusive services to a diverse population at greater scale. Indeed, reaching a broader population is the objective behind the mainstreaming trend which is gaining ground across Europe. Policies that address disadvantaged areas instead of targeting disadvantaged groups are being increasingly tried out (Collet and Petrovic, 2014).

One example from the regional level is the Swedish project “Let’s Colour Gothenburg”, which puts unemployed young people to work in an effort to beautify the city and unite its residents. The project engages youths from districts of Gothenburg where the unemployment rate is high and trains them to become professional painters. The apprentices get to reinvigorate Gothenburg’s suburbs as part of their apprenticeship. Teams are deliberately “diverse”, including newly arrived residents, long-standing Gothenburgers, nationals, foreigners, women and men.¹⁰

9 To give but one example: A Ukrainian newcomer to the Czech Republic will have access to language courses, a Spaniard will not.

10 Detailed information about this project is available at: <https://sattfargpa.se/> (in Swedish).

Such area-based approaches do not eliminate the problem of certain subgroups falling through the cracks. For example, they may not meet the needs of new arrivals who live outside of deprived neighbourhoods. Mainstream policies also require large coordination efforts among often considerable numbers of State and non-State actors.¹¹

Nonetheless, in increasingly more diverse societies, and in order not to perpetuate “Otherness” and boundaries between groups, mainstream integration policies, directed at all disadvantaged people, appear as attractive options. Not surprisingly, in his work on “super-diversity” Vertovec calls for “public policies better suited to the needs and conditions of immigrants, ethnic minorities and the wider population of which they are inherently part” (2007, p. 1050).

Current anti-discrimination policies are dependent on categorizations which are increasingly difficult to make in diverse societies, and frequently these categorizations do not correspond to peoples’ self-identification and how they perceive themselves. In this field as well, policies that go “beyond the ethnic lens” (Glick Schiller and Caglar, 2013) might be badly needed in the future – all the more since people are not one-dimensional and encounter intersecting forms of discrimination.¹²

Migration and integration research: Towards new units of analysis?

The blurring of concepts and notions of who constitutes a migrant call for a profound rethinking of migration theory and research. This has been suggested by academics from various disciplines and for different reasons. We have shown in this chapter the perpetual role that migration plays in unsettling configurations around political unity and national membership. In this final section, we reflect on some patterns and issues around migration that challenge well-established categories and, therefore, present new areas of exploration.

The first of these refers to “**circular migration**”. In reflections on “circular migration” as an employment strategy, Venturini (2008) observes the changing nature of labour mobility in globalized labour markets, with short-term movement becoming more prevalent. She considers that if migration becomes perceived by origin countries as a “temporary lending” and by host countries as a “temporary borrowing of labour” for a given (short) period, then the term “migrant” may have to be redefined (p. 2). Traditional information-gathering instruments (e.g. population censuses and labour-force surveys) that capture mainly settled foreigners become obsolete in this context, and frequent topics in migration

¹¹ For a discussion of targeted and mainstream integration policies in Europe, please refer to Benton et al. (2014).

¹² Editors’ note: See for example Almeida and Lopez (Chapter 10) in this volume.

research and theory such as integration/assimilation, labour market competition and the use of welfare systems by migrants would also not necessarily be relevant for short stays (p. 2). From this perspective, “migration research” in the future should not be around settled persons. *A contrario*, research about settled persons would have to be covered by other strands of the social sciences.

A second aspect relates to **integration issues** within migration research itself. From a very different starting point compared to Venturini, Dahinden (2016) in her reflections calls for the establishment of “a kind of ‘post-migration social science’, social science that deals with migration and integration as a fundamental part of societies, and therefore as a topic that is integrated *transversally* into all disciplines of social science research and theory” (p. 14). Dahinden shows that migration and integration research originates in a historically institutionalized nation-State migration apparatus and is therefore bound by a particular normalization discourse. Such research runs the risk of portraying migration-related difference as naturally given, even when it attempts to be critical of this paradigm (p. 2). Migrants are always seen in contrast to non-migrants and integration research tends to present “ethnically or nationally defined migrant groups or minorities as if their boundaries of culture/identity/community automatically correspond to each other” (p. 4). In order to “de-migrantize” research on migration and integration, Dahinden proposes, among other things, to link migration research to the analytical categories of social science more broadly and to re-orient the unit of analysis from the migrant population to (empirically relevant parts of) the whole population.

We believe that for diverse societies such a re-orientation of research, which one could call a “two-way mainstreaming” of the topic of migration, will be important for two reasons, methodologically and politically.

Methodologically, we will have to think of new ways to “capture” the experience of so-called minorities and the way we collect evidence. In this context, even the very notion of “evidence” may need to be reconceptualized as we seek new categories to reflect the complex realities of movement in diverse societies, as well as the relationship between mobile and settled populations. Issues of method will also influence theory-formation to include other parts of the world in integration and diversity debates. So far, the literature in the global North has focused on approaches in developed economies, but with new migration and refugee flows (the latter taking place to developing nations mostly), there is space for new paradigms that bring to light other realities, contexts and geographical locations in theorization of what constitutes integration and diversity.

The political implications are vast, as the interrelations between research, public debate and policymaking vary across countries and are shaped by differentiated dynamics between various agencies involved in migration policy, and institutions affected directly and indirectly by the policy-making processes.

For example, ministries of labour, foreign affairs and the interior perceive the impact of migration differently.

Added to this, a new reality in contemporary debates lies in the role of media and social media in channelling and driving politicization processes. As highlighted by Palme et al. (2019): “A problematic media culture, where media is exploiting fears among the public for commercial purposes and politicians do the same for political/electoral purposes, is of course a fertile soil for the abuse of research. If media are dominated by negative sentiments towards researchers and experts, this is likely to magnify problems” (p. 242). Social media has achieved a new role in “managing” value-related emotions that involve hopes and fears with clear implications for the lives of some people, as we addressed in the previous sections referring to populist discourse.

As migration and diversity bring new connections, across and within borders, the institutions of the labour market become instrumental tools to guarantee equity for all workers, including migrant workers and refugees. Historically, labour markets are regulated nationally whereas migration and commerce have become global. This may require new forms of international governance of labour markets, but at a minimum, it requires that nation-States apply their labour laws to all workers, without making distinctions based on nationality or immigrant status (see Berg, 2015; Kuptsch, 2015).

The fact that labour markets are regulated differently from State to State should not be forgotten by those who study migration and labour market integration. Integration context theory (Crul and Schneider, 2010), which underscores the importance of institutional arrangements for integration processes, has made an important contribution in this regard. As shown by Crul (2016), theories such as segmented assimilation theory (Portes and Zhou, 1993) that stress differences in integration patterns and outcomes between different ethnic groups, appear outdated in societies that are characterized by a multiplicity of diversity. Migration and integration research in the future must be attentive to “within-group differences” (such as a person’s socio-economic position or gender) and local institutional contexts; it should also not take boundaries between groups as a “natural given” but instead examine the making of boundaries as a social construction.

Transversally combining integration and migration research in diverse societies implies navigating the tensions of the “nation-State”. We discussed the push to move beyond methodological nationalisms and to nuance understanding of “migration and refugee crisis”. However, from a policy-making standpoint, the reality of being confronted with nation-States persists. Therefore, taking into consideration the problematic implications of relying too much on the nation-State as a unit of analysis, we would like to suggest a “whole-of-society” approach by bringing back migration research, and in particular integration and diversity issues, as a labour-market institution subject. This means studying and

understanding migration within the “whole of the population” approach and linking with other relevant public-policy issues since migration and integration do not happen in a vacuum (Palme et al., 2019, p. 242). Who is being labelled a “migrant” would thus become less significant and presumably reduce societal and labour-market exclusion.

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► Rethinking diversity: A solution for the future

Natalie Rinfret, Francine Tougas and Ann M. Beaton

Introduction

Conventions Nos. 100 and 111 of the International Labour Organization, adopted in 1951 and 1958, respectively, established the principles of equal pay for men and women for work of equal value, as well as freedom from discrimination in employment (ILO, 2011). The governments of several countries followed suit. For example, the United States passed the Civil Rights Act in 1964, and Canada ratified Convention No. 100 in 1972 (Conseil du statut de la femme, 1993). Laws were enacted and programmes were implemented to fight discrimination in the workplace; and, over time, more than 90 per cent of the member countries of the ILO ratified these Conventions (ILO, 2011) by implementing programmes such as employment equity in Canada (Emploi et Développement social Canada, 2019) aimed at groups recognized as being discriminated against in the labour market, including women.

Although laws have been in place for several decades, employment discrimination has not disappeared. In this chapter, we will focus on the hidden effects of employment discrimination. By this we mean the emergence of subtle forms of discrimination that often fly under the radar but that nonetheless have negative effects on the attitudes and behaviours of members of targeted groups. This chapter also considers an overlooked segment of the groups targeted by existing programmes: older workers. We conclude this chapter by proposing a hybrid model of interventions, considering the organizational system (employment equity practices), discriminatory attitudes and behaviours, and the type of leadership best suited to this context (Jones and Dovidio, 2018). This hybrid model includes, first, the implementation of initiatives aimed at promoting employment equity and combating discrimination and, second, the adoption of practices that foster inclusion and full participation of all stakeholders in the mission of their organization.

Subtle forms of discrimination

The promotion of equality in general and the implementation of employment equity initiatives in some industrialized countries (including Canada and the United States, to name but two) have had both positive and negative effects. While they have reduced the expression of overt racial and gender bias, they

have also encouraged the emergence of a more subtle form of discrimination. Openly talking about innate gender or racial differences has become socially unacceptable, if not illegal, in some environments. Thus, researchers have identified two forms of racial and gender bias (Tougas et al., 1998; Tougas et al., 1995). On the one hand, traditional prejudices exist around a belief in the inferiority and innate differences of women and racial minorities compared to white men. They have the effect of confining these two groups to job categories suited to their perceived limited abilities and can result in degrading, if not violent and hateful language and actions (Charest et al., 2017). On the other hand, more subtle prejudices are appearing in current social norms, concealing a conflict between the values of equality and remnants of negative beliefs and feelings towards women and racial minorities (Tougas et al., 1995, 1998). For example, some contend that it is wrong for women to try to break into professional fields that are better suited to men, or that women who have risen through the ranks have been “given a pass”. There are also behaviours that make women and minorities “invisible”, either by not soliciting their opinions or by not considering what they say in meetings.¹ While the latter form is more covert, it is no less effective than the traditional form of prejudice in denigrating and underutilizing the abilities of women and racial minorities. In short, people are excluded and treated as second-class citizens.

Workforce statistics reflect both the efforts to promote equality and the vestiges of prejudice and discrimination. Significant progress has been made, but groups are still struggling to access certain areas of employment and are under-represented at higher levels of the hierarchy. An analysis of labour force data from 142 countries indicates, for example, that in developed countries, women are over-represented in the lowest-paid job categories. They make up more than 60 per cent of office, service and sales workers (ILO, 2016). Statistics also show that women have made slight progress in well-paid sectors, such as managerial, technical and professional jobs, where they represent 48.1 per cent of the workforce. Nonetheless, they remain a global minority in management positions (ILO, 2017) and in science, technology, engineering and mathematics (Catalyst, 2020). Finally, it should be noted that women in the highest positions in organizations still receive lower financial compensation than their male colleagues for equivalent work (Macdonald, 2019).

The statistical portrait of the situation of the groups targeted by the various programmes in place is incomplete because it does not consider the situation of one significant group both in terms of their numbers and their relevance to meeting new workforce challenges (Fields, Uppal, and LaRochelle-Côté, 2017). We refer here to older workers. It should be noted that the ageing of the workforce coupled with massive retirements has created serious labour and

¹ Editors' note: See also Almeida and Lopez (Chapter 10) and Bellemare and Charest (Chapter 11) in this volume.

skills shortages in industrialized countries (Eurostat, 2018; Statistics Canada, 2017; United States Census Bureau, 2018). According to Bloom, Canning, and Fink (2010), two solutions have been considered to fill job vacancies: increasing the participation of women in the labour market and promoting the retention of older workers. The latter solution comes up against two major obstacles: degrading prejudices and the adoption of coping and self-protection mechanisms, such as disengagement from one's work.

Prejudice against older workers

Ageism is recognized as the third major type of discrimination in industrialized societies along with sexism and racism (Butler, 1978; Palmore, 1999; Rupp, Vodanovich and Crede, 2006). In some Western countries, including Canada (Lagacé, Van de Beeck, and Firzly, 2019), the United Kingdom (Warr, 2001), and France (Cochard, 2020), workers are considered "old" and subject to ageist prejudice as early as age 45. According to ageist stereotypes they are, among other things, unproductive, resistant to change and reluctant to learn about new technologies (Chiu et al., 2001; McGoldrick and Arrowsmith, 2001; Ng and Feldman, 2012; Posthuma and Campion, 2009). These biases have real-world implications. For example, results from a meta-analysis show that ageism is associated with discriminatory selection processes (Jones et al., 2017).

Coping and self-protection mechanisms

The concept of psychological disengagement is a coping mechanism by which an employee might, for example, opt to "virtually" withdraw from their workplace due to the perception of unfair treatment as a member of a targeted group. There are two mechanisms for psychologically withdrawing from an environment that is inhospitable to one's group: discounting and devaluing (Crocker, Major, and Steele, 1998). Discounting is used to escape criticism and poor evaluations by attributing little or no value or credibility to them because they are perceived to reflect the biased beliefs, attitudes and behaviours of colleagues and superiors.

The second mechanism, the more drastic form, is an important step on the path to disengagement and has been called the "royal road" (Croizet and Martinot, 2003). It involves virtual withdrawal from one's field of employment where one's group is treated in a discriminatory manner. Through devaluing, work no longer occupies a predominant place in the image of self, as if one's heart is no longer in it. This mechanism has profound and harmful repercussions, both for the individual and for society, when it involves withdrawal from an area of social integration as important as work.

Studies on psychological disengagement at work have focused primarily on female workers (Beaton et al., 2015; Tougas et al., 2005). Whether they are in traditionally female fields (nurses, support workers) or male fields (police officers, engineers), the results highlight the consequences of differential treatment of women at work (Laplante, Tougas, and Kocum, 2015). Consistent with theoretical predictions, the adoption of disengagement mechanisms, following the recognition of differential treatment, was shown to occur sequentially. Discounting is the first response to differential treatment and leads to the more detrimental form of disengagement, devaluing the field of work.

The negative effects of both disengagement mechanisms include a decrease in self-esteem. Self-esteem is tarnished by the adoption of the disengagement mechanisms, following the recognition of discriminatory treatment at work. Disengagement affects not only the level of self-esteem but also its stability. It should be noted that stable self-esteem is a factor in personal and professional well-being (Kernis and Goldman, 2006). In addition, disengagement is related to stress and self-limiting behaviours, e.g. lowering one's career goals (not applying for higher positions) or limiting one's participation in professional activities (not serving on committees or taking training). In other words, it is creating a personal glass ceiling for oneself (Rinfret et al., 2018).

The ins and outs of psychological disengagement among older workers have also been studied (Lagacé et al., 2008, 2010). As in the case of female workers, studies conducted with older workers have highlighted the deleterious effects of differential treatment (seniors versus juniors) in the workplace. For example, it has been shown that disengagement dampens the impulse to share knowledge with younger colleagues. The transmission of know-how and life skills to the next generation suffers, resulting in "corporate memory gaps". Disengagement also crystallizes retirement intentions. In other words, disengagement is associated with intentions to effectively withdraw from the world of work. Retirement is seen as a way out of a toxic environment for older workers.

In summary, studies on psychological disengagement show that discrimination is costly for people in stigmatized groups. But the damage is not just personal. Organizations and society in general also pay a price through the loss of productivity, output and performance.

Diversity strategies in organizations

To counter discrimination and psychological disengagement of workers, and to increase the representation of targeted groups via employment policies (e.g. employment equity), companies have developed various strategies to ensure that the representation of targeted groups is equal to their availability in each job category and at all levels. These strategies include: "in-depth workforce analysis"; "review and, where necessary, elimination of discriminatory selection

criteria and practices”; “creation of diverse hiring committees”; “advocacy for hiring a member of the targeted groups with equal skills and experience”; “support of targeted group members in their professional development”; and “expansion of the area of selection to reach targeted group members in the recruitment or appointment process” (Tougas, Lamarche, and Chagnon, 2008).

Since increasing the representation of targeted groups is not without opposition and conflict, employment equity programmes have included practices to discourage discriminatory behaviour. Studies of programmes targeting women and minorities have identified the most deterrent and effective (Hideg, Michela, and Ferris, 2011; Human Resources and Skills Development Canada, 2012; Lamarche et al., 2006; Tougas, Lamarche, and Chagnon, 2008). It appears that the *sine qua non* condition for the success of an employment equity programme is the firm and unequivocal commitment of senior management.² Change occurs from the top down. But that is not all. This commitment must be backed by measures to prevent conflict and sabotage and also to engage everyone in the effort to promote employment equity. First of all, the “why” and “how” of the programme must be clearly explained; otherwise, perceptions may be influenced by prejudices and misconceptions about this type of initiative. On the one hand, some may believe they have no chance of being hired or promoted because they are not targeted by the programmes. On the other, being part of a targeted group may be seen by some as a stigma or a barrier to realizing their full potential.

Communication is of primary importance when it comes to changing mindsets and, as a result, corporate culture. Other practices have been identified to maximize the effectiveness of an employment equity programme: “zero tolerance for identifiable and traceable discrimination”; “each employee signing a code of behaviour that excludes all forms of discrimination”; “managerial accountability”; and “the implementation of mechanisms for managing interethnic conflicts”, to name but a few (Konrad, Yang, and Maurer, 2016; Lamarche et al., 2006; Tougas et al., 2008).

An employment equity programme that includes deterrents is a cornerstone for changing attitudes; however, the imposition of counter-cultural behaviours can create a perverse effect, i.e. overt and/or subtle oppositional reactions that lead to self-exclusion of the targeted groups and, consequently, to the underutilization of the human capital of organizations. Can we afford the luxury of waiting for the organizational culture to change as the number of employees in the targeted groups increases and meets the numerical objectives? We could be in for a long wait. For example, according to some studies, it would take up to 200 years for the number of women to reach the critical mass (30 per cent), a *sine qua non* condition for the fair and equitable recognition of their skills (Lortie-Lussier and Rinfret, 2002; World Economic Forum, 2018).

2 Editors’ note: See also Tremblay, Khemakhem and G elinas (Chapter 2) in this volume.

Our impatience to see tangible results in the twenty-first century leads us to propose a “hybrid model” developed in two stages. In the first stage, efforts are focused on equity programmes as we know them, accompanied by measures to prohibit discrimination against particularly disadvantaged groups in the workplace (women, minorities, etc.). In the second stage, initiatives are implemented that aim to create an organizational culture that promotes diversity and inclusion of *everyone* in the workplace, including older workers. The determinants and consequences of an inclusive culture are discussed in the following section.

Establishing an inclusive culture: The transformational leader

A strong commitment from senior management is the first step in building an inclusive culture, and it must be guided by the right kind of leadership. There is no change without a leader, and to build an inclusive culture, transformational leadership must be targeted. This type of leadership is most appropriate in a context of great turbulence accompanied by profound and complex changes. The transformational leader creates a genuine emotional relationship with his or her collaborators, leading them to transcend their individual needs to carry the common project towards an ideal of progress (Rinfret, 2012). The transformational leader motivates and intellectually stimulates his or her collaborators to develop professionally so they can meet the demands of the anticipated changes. He or she stimulates effort and mobilizes collective intelligence by highlighting the talents and contributions of each individual. This type of inclusive leader capitalizes on all good ideas, regardless of their origin. He or she drives sustainable organizational change by creating a culture where everyone is recognized for their contribution.

In a context of labour scarcity and mass retirements, it seems essential to us that this type of leadership be put forward, which is confirmed by a study on the intergenerational transfer of knowledge (Rinfret et al., 2020). Indeed, this study shows that transformational leaders are associated with the implementation of an inclusive culture that promotes values of openness, trust and organizational learning practices.³ These values lead to the recognition and valuing of the contribution of older workers, who gain credibility with younger employees. In this way, knowledge sharing becomes a reality. Other positive effects, both individual and organizational, have been identified, including work motivation, satisfaction, job retention and greater team and organizational performance. A recent study comparing high- and low-performing Fortune 1000 companies (the 1,000 largest US companies ranked by revenue) in terms of gender-diversity management and inclusion found that the transformational leadership style exercised by senior leaders is a key success variable (Hannan, 2018). Moreover,

3 Editors’ note: See also Hanula-Bobbitt (Chapter 4) in this volume.

the behaviours associated with transformational leadership styles are also identified by Turner (2018) as determinants of diversity, in all its forms, in organizations. This type of leadership is developing, and some programmes have proven successful (Roupnel, Rinfret, and Grenier, 2019). At the conclusion of one such programme in Quebec for high-potential government executives (Rinfret et al., 2019), a 360 degree evaluation with the organizational entourage of the participants shows significant improvement in their transformational leadership skills (Rinfret, Roupnel, and Ouédraogo, 2020).

Conclusion

Banning discrimination and promoting inclusion through transformational leadership are the premises for the future of diversity in all its forms. One cannot be achieved without the other. To meet the challenges of the highly competitive market conditions in the twenty-first century, public and private organizations have no choice but to demonstrate their distinctive relevance if they are to survive. They no longer have the luxury of excluding an essential part of their workforce and must create a novel form of collective intelligence.

Consideration of transformational leadership leads us to think about an inclusive work environment *for all*. A true culture of inclusion recognizes not only certain targeted groups but rather the very essence of human capital, away from categorizing employees (women, minorities, older employees, etc.). Breaking out of the paradigm of targeted groups and rigid thinking to promote “rethinking” propels us into this new era, where innovation is a daily occurrence.

What conditions would lead to the implementation of a real culture of inclusion? Recalling that employment equity goals have not been met, let us allow ourselves to aspire to achieving real inclusion for all. For each step presented below, it is imperative that managers ensure that the impact of each initiative is measured and evaluated systematically and at predetermined intervals, and that corrective action is taken if necessary. Otherwise, it is just lip service or wishful thinking (Hall et al., 2016). In what follows, we outline the steps of a *hybrid model* leading to true professional inclusion. Combining diversity and promoting inclusion in companies stimulates employees to perform at their best and, as a result, positively impacts performance indices.

The first two steps are must-haves that keep us in the target paradigm, as these targets have not yet been met:

1. Implement an employment equity programme by senior management that believes in it and leads by example, i.e. by being diverse itself (Capstick and Lord, 2018; Hunt et al., 2018).
2. Make each branch of the organization *accountable* for achieving the targeted results.

The following steps propel us towards an organizational culture of inclusion and full participation of all employees, whether they belong to targeted groups or not. This is where we move out of the target group paradigm in a medium- to long-term process involving several steps:

3. Develop transformational leadership at all levels of the organization through training programmes, including mentoring, coaching and learning-by-doing.
4. Implement excellence programmes: identification of employees with high potential, talent development, innovation training and intergenerational transfer of knowledge through mentoring.
5. Decentralize the various sectors of the organization to encourage “rethinking”, and approach problems from a different angle. For example, set up a collaborative innovation platform that includes people from all sectors of the organization and different professional, academic and socio-cultural backgrounds. These are non-hierarchical groups brought together to find ways to improve the organization’s functioning and performance. Through the sharing of problems, the interdependence of the different sectors is transcended to arrive at an appropriate and original solution.

Employment equity programmes have been in place for decades. While some may consider the progress to be minimal, we have learned from mistakes and success stories. Lessons have been learned and we can build on the experience. Exchanges and knowledge sharing between international researchers and practitioners is an opportunity to take another step towards understanding and demystifying the issues of diversity, and to feed the reflection of legislators on these issues and thus lead them to propose policies aimed at making the societies of tomorrow more inclusive.

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Conclusion

► The future of diversity: Reflections on policy needs and research gaps

Christiane Kuptsch

The chapter authors have offered various interpretations of the concept of “diversity” and examined it in conjunction with a variety of other aspects (economic and business considerations; discrimination on various grounds and their intersections; boundary building and the production of inequality; public policies and collective action that seek to address inequalities, etc.). They have all reflected on the most appropriate interventions to create a more inclusive labour market for all. What can we learn from these “diverse” perspectives?

Diversity and inclusion: Two sides of the same coin

One message that clearly emerges is that diversity and inclusion go hand in hand. Inclusive policies are needed to bring about diversity at the organizational (meso) and societal (macro) levels, and to respect individuals with all their “diverse” characteristics and traits (micro level).

Policies, however, should be aimed at structures and institutions, not at people. Policies that strive to “include people” indirectly label these people as “Others”. Such policies also risk triggering a backlash as is well known in connection with affirmative-action programmes, and can lead to the “hypervisibility/invisibility paradox” that *Hamel-Roy and Dumont-Lagacé* describe in this volume. It should be remembered that “exclusion” and “inclusion” as concepts appear to take a particular (more or less homogenous) group as the starting point, from which individuals are either excluded and/or into which individuals are included. In this sense, the risk is therefore high of taking the standpoint of, say, the “typical worker” or of the member of the “in-group” to design policies to “include others”.

To advance diversity, whether in businesses, organizations or societies at large, work is needed on inclusive institutions and structures where everyone fits in, feels welcome and “safe” (*Almeida and Lopez*), and no one is regarded as the “Other”. *Hanula-Bobbitt* implies this when she says in reference to diversity management that inclusion is the only *scalable* way to build diversity within an organization, and *Kuptsch and Mieres* make this point when they discuss targeted integration policies for migrants versus mainstream labour market policies.

One may have to concede, as *Rinfret, Tougas and Beaton* do in their proposal of a “hybrid model” towards diversity, that, initially, it might be appropriate to maintain diversity management programmes of a more traditional type where targets are established – simply to bring up the numbers of under-represented groups of workers in given workplaces. *Schmidt and Tomei* offer insights on trade union actions of this type as regards gender diversity. Examples of such targeted efforts include quotas for women’s participation in union congresses, reserved seats on executive bodies, and representation of women in decision-making bodies proportional to their membership in the organization at large.

However, several authors stress how important it is that more “traditional” diversity management programmes have the full buy-in of senior management who will lead by example and be responsible for achieving results, and that these programmes must be associated with appropriate legal protections against discrimination. Ultimately, in the longer term, it should be possible to move beyond target groups and the categorization of employees to create an inclusive work environment for all, with the full recognition of all human capital. As steps toward such an inclusive organizational culture, *Rinfret, Tougas and Beaton* consider the following actions, among others: transformational leadership (with managers creating emotional ties to staff, motivating and stimulating staff intellectually); the establishment of excellency programmes; and breaking up structural/organizational siloes, for example via the creation of non-hierarchical working groups across departments.

Cultural change needed

Cultural change cannot be achieved with one-off policies, as *Chang* makes particularly clear.

And cultural change in workplaces does not come in a vacuum. One has to see the wider picture, the degree to which any pro-diversity policy is embedded and its interlinkages with other policy fields.

For example, *Chang* suggests challenging “available anytime” performance models to remove barriers for women and to start advocating a gender-inclusive culture in families, communities and schools, beyond merely the labour market and workplace. Similarly, *Adams and Berg* call for policies that address the sexual division of responsibilities in the household, if one wants to arrive at fair outcomes for both women and men. The ILO’s Quantum Leap Report of 2019¹ identifies four mutually reinforcing paths on the way to gender equality: the path of rights; the path of access to infrastructure, social protection and

¹ See: ILO. 2019. *A quantum leap for gender equality. For a better future of work for all*, Geneva: ILO.

public care services; the path of engaging and supporting women through work transitions; and the path to women's voice and representation.

Hamel-Roy and Dumont-Lagacé point to the fact that substantial means are needed to bring about system change in sectors largely dominated by any one group of workers – as in the construction industry in Quebec, where resistance to integrating women workers is vigorous.

The legal system is also considerably influencing how diversity is managed and how discrimination is perceived. Legal complexities can stand in the way of cultural change and prevent the recognition of systemic discrimination, for example, as *Gagné* shows in this volume. And legal categories can create occupational segregation, as *Depatie-Pelletier, Deegan and Touma* demonstrate in their analysis of temporary foreign worker programmes.

Several authors emphasize the role of leadership in successful cultural change. In this regard, *Hanula-Bobbitt* takes the optimistic view for the future in that millennials will transform the concept of “diversity”, linking it much more to inclusion than is currently the case – especially once this generation integrates into leadership positions. According to surveys, for millennials diversity is about working and collaborating with people from varied backgrounds, and they see diversity as essential for an inclusive culture that supports engagement, empowerment and authenticity. They also conceive of diversity as thought-associated diversity, which provides protection against “groupthink”, a frequent phenomenon in heterogeneous groups, whereby viewpoints and decisions are based on group conformity.

Biases and stereotypes: A major impediment to diversity

Biases and stereotypes that clearly exist, for example vis-à-vis black women as *Almeida and Lopez* demonstrate, are major obstacles to cultural change in workplaces. How to overcome them is the big question.

Tremblay, Khemakhem and Gélinas propose methods to overturn biases against women workers that can also be applied to other groups. For example, “nudge theory” challenges the belief that decisions are taken rationally and logically. Instead, this theory argues that decisions are taken instinctively and often irrationally, and therefore, that methods relying on instructions, enforcement and punishment are not sufficient to suppress unconscious biases. *Tremblay, Khemakhem and Gélinas* claim that “Just like prejudice tends to decrease as people become more exposed to diverse social groups, the same applies to implicit biases because the brain can be trained to form new associations by direct or indirect exposition to positive images.” They see numerous ways to instil positive images of under-represented groups in the workplace such as information about peers' positive practices and actions, creating mingling

opportunities, informative training on the benefits of diversity, celebrating the accomplishments of minority role models, and promoting neutral language in all documentation and policies. They further highlight that focusing the brain on exclusively relevant facts can help foster the recruitment of under-represented staff, as when the names and other information that may point to a candidate's gender, race, age, and other bias-triggering factors are removed for resume assessment. Research has shown that this can reduce unconscious bias significantly.

One often hears that awareness and recognition of our biases towards individuals from minority groups would be a first and crucial step in curbing them, and *Bellemare and Charest* in this volume share this view. They propose to act at various levels to “unlearn” existing biases, starting with the socialization of the very young, for example in day-care institutions, via TV shows for children, textbooks, games, in schools, day camps, continuing education, sports and recreational activities. It is in daily activities that the transmission of biases takes place, hence the importance of acting also outside the world of work, besides crafting policies at the macro level of professional integration, setting up continuous training programmes and demonstrating political will.

Research gaps

Much of the research on diversity and related issues, such as labour-market inclusion and exclusion, discrimination and violence in the workplace, equal or unequal outcomes for members of minority groups, etc. focuses on countries of the “global North”.

In this volume, *Sandhu*, among others, points to this. While recognizing that research and data collection on LGBTI people in the world of work has increased over the years, he still sees large gaps in knowledge as most of the research focuses on countries in North America and Europe. In particular, he calls for more studies that would identify the extent of discrimination and how it manifests in countries where same-sex intimacy is criminalized and gender-recognition laws do not exist.

Sparreboom, Kups, Mertens and Berger also confirm that research on more diverse societies and labour markets in developing countries has been rare. They acknowledge that research on the economic contribution of migrants has expanded in line with the growing importance of migration flows, and often supports the economic case for diversity, but this research is mostly related to developed economies. They further note that research results appear to be sensitive to methodologies and contexts, and underline that a key methodological improvement required for individual country analysis is clarity in measuring and distinguishing short- and long-term effects.

Further research gaps are detected by *Ciobanu*, who considers that there is a clear lack of literature examining the implications of ever more diverse groups of older people for the organization and provision of old-age services. “More attention needs to be paid to the systematic study of the diversity of older migrants and its repercussions both for the meso level, neighbourhoods and associations, and for the macro level, such as the organization of care provision.”

In line with Ciobanu’s call to not underestimate the diversity within “groups”, *Kuptsch and Mieres* stress the importance of “whole of population approaches” in migration and integration research, to counter the notion of “Otherness”. Following Janine Dahinden’s suggestion to “de-migranticize” research on migration and integration,² they propose that future research look more at empirically relevant parts of the population instead of always seeing migrants in contrast to non-migrants and portraying migration-related difference as naturally given.

Kuptsch and Mieres also make the point that with migration increasing, particularly to urban areas, “people may find themselves in ‘mixed communities’ either through travel or at destination”. Sjoerdje van Heerden and Didier Ruedin (2017) have examined ethnic diversity dynamics and immigrant visibility at the level of the neighbourhood and how proportional changes in residential context are associated with changes in attitudes towards immigrants. They show that a larger change in the proportion of immigrant residents is correlated with more positive views on immigrants among natives, particularly when the share of visible non-Western immigrants increases. These findings defeat theoretical expectations about “defended neighbourhoods” from ethnic threat perspectives, at least in the Netherlands for the period under consideration.³ More research of this type would be useful.

Large research gaps also remain regarding the impact of new technologies on diversity, inclusive labour markets and societies. Ever since the creation of the ILO, the workplace has been recognized as a place of integration, a place for building cohesion in societies. At work, people of different characteristics and backgrounds come together and are compelled to communicate around a common goal: the production of goods and services. However, with greater numbers of workers joining the digital economy and emerging business models that lead to more and more workers working in isolation, from home or other places (private or public spaces), does the workplace risk losing this “integrative function”? Teleworking experiences during COVID-19-related lockdowns in 2020

2 Dahinden, Janine. 2016. “A plea for the ‘de-migranticization’ of research on migration and integration”, *Ethnic and Racial Studies*, January 2016. DOI:10.1080/01419870.2015.1124129

3 The research draws on data collected by the Longitudinal Internet Studies for the Social Sciences (LISS) panel, administered by CentERdata, and looks at the period 2008–2014. See: van Heerden, Sjoerdje and Didier Ruedin. 2017. “How attitudes towards immigrants are shaped by residential context: The role of ethnic diversity dynamics and immigrant visibility”, *Urban Studies*, Vol. 56, No. 2, 317–334. <https://doi.org/10.1177/0042098017732692>.

and 2021 appear to indicate that this is not necessarily the case and that “virtual teams” can exist. However, what about young workers joining the workforce or new staff in enterprises, can they be integrated? Is “electronic teambuilding” possible? Also, when the home becomes the workplace, issues of equal opportunity loom large, as ILO research shows.⁴

Wherever artificial intelligence helps with recruitment processes and is supposed to be “neutral” in evaluating resumes, there is the danger of built-in biases in the algorithms that will “learn” from earlier recruitment choices. And what about facial recognition devices, might they be used to increase racial profiling and present further barriers for some on their way to work, for example? On the other hand, what chances do new technologies offer to advance pro-diversity and anti-discrimination policies? The impact of technologies remains a huge question mark for the future of diversity as for the world of work at large. In any case, the subject of “diversity” in all its interpretations merits further exploration by both academics and practitioners.

4 ILO. 2021. *Working from home: From invisibility to decent work*, Geneva: ILO.

Advancing social justice, promoting decent work

The International Labour Organization is the United Nations agency for the world of work. We bring together governments, employers and workers to drive a human-centred approach to the future of work through employment creation, rights at work, social protection and social dialogue.

This book offers new perspectives on the concept of diversity and the role diversity can play in the world of work of the future.

Scholars and practitioners from various disciplines and backgrounds reflect on the most appropriate interventions to create a more inclusive labour market for all. They explore the economic case for diversity and diversity management strategies, finding that diversity and inclusion must go hand in hand.

The authors show that biases and stereotypes that lead to discrimination and violence – whether in blatant or more subtle forms such as microaggressions – are a major impediment to diversity. However, cultural change in the workplace cannot be obtained with one-off policies and the effectiveness of pro-diversity initiatives may depend on variables outside the labour market. Legal protections from discrimination and provisions for equal opportunities for “diverse persons” are often not enough to deliver outcomes of equality and inclusion.

The book also sheds light on the policy dilemma between respecting individuals with all their particularities and countering structural inequalities, which often requires categorization into groups. The authors remind us that there is diversity within diversity: not everyone receiving the same label has the same needs.

The book covers issues such as gender equality and mainstreaming, migration and ethnic diversity, racism, violence against LGBTI people and age discrimination. Tools used in one area to overcome exclusion are often also applicable in others. *The future of diversity* is thus a rich source of inspiration for anyone wishing to move towards greater justice in the labour market.

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