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# Legal Characterization of the Worker in New Forms of Employment: Reflections on the Subjective Scope of Labour Law

Esther Guerrero Vizuete <sup>1</sup>

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**Abstract:** This paper analyses the new forms of employment and their impact on the traditional notion of subordination in case law. The aim is to establish the criteria that should define the legal nature of the new provision of services and the subjective scope of Labour Law.

**Purpose:** The paper highlights the need to redefine the concept of subordination, delimiting its contours in order to establish a clear boundary between autonomous work and wage labour.

**Design/methodology/approach:** The objective is to determine whether the services provided on digital platforms fit into labour budgets or whether other legislative options should be pursued.

**Research implications:** The diversity of ways of working stemming from digitalization suggests that it is necessary to explore other ways of protecting digital workers. The traditional trend towards the employment of service provision in which there is a certain degree of subordination should be overcome.

**Originality/value:** The originality of the paper lies in its approach, which suggests including digital workers the category of economically dependent autonomous workers

**Paper type:** Research paper

**Keywords** – *Concept of employee, Labour subordination, Self-employment, New types of employment*

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<sup>1</sup> Esther Guerrero Vizuete is a Serra Hunter Fellow in Labour and Social Security Law at University Rovira I Virgili ([esther.guerrero@urv.cat](mailto:esther.guerrero@urv.cat)). Orcid: 0000-0001-9710-4823. This research paper is part of Project RTI 2018-097947-B-I00 entitled "New technologies, organizational changes and work: a multidisciplinary vision" funded by the Spanish Ministry of Economy and Competitiveness. Main researchers: Ana Romero Burillo and Josep Moreno Gené.

## 1. Labour Law before the New Ways of Providing Services

Twenty-first century employment has a polyhedral morphology<sup>2</sup> that obliges us to reconsider the most basic concepts of our discipline. Moving away from a typically Fordist radiography, in which the company was a centralized production space, globalization, the intensive use of new technologies that facilitate crowdsourcing<sup>3</sup>, and above all, the changes in the way consumers acquire goods and services are transforming our Labour Relations system. This change "will not be trivial", as ARIAS DOMÍNGUEZ points out, "since our historical employment model is built on social and productive bases under discussion"<sup>4</sup>.

Companies are adapting to the new reality by replacing their hitherto centralized production process with a network of external collaborations with the dual objective of lightening their structure and adapting more easily to the swings in supply and demand. These changes have particular importance in the labour field, because the widespread use of productive decentralization as a formula for business organization is giving rise to new ways of integrating of employees in production processes<sup>5</sup>. The "traditional" job is stepping back for a "technological" job in which the employee's presence is "virtual". The employee is located in an ethereal space, where there are no or only limited orders and is often submitted to the standardized execution procedure imposed by computer programs. The results of which are not valued directly by the employer but indirectly by the final recipients of the work. Jobs are therefore carried out very independently, and there is a more intense

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<sup>2</sup> This expression refers to the different ways of providing services at present: as an employee, subordinate worker with high doses of independence, self-employed worker, or as an economically dependent self-employed worker. In all of them, the notes of independence and subordination are present in different measure and with different scope.

<sup>3</sup> Crowdsourcing refers to a business model in which a provision of services that has traditionally been performed by a single employee is subject to division and its performance is attributed to a plurality of providers who perform a tiny part of it, and as a result, the consideration for the performance of a micro-task is a micro-payment.

<sup>4</sup> The aforementioned author considers that the very concept of work pivots on two inconclusive debates: firstly, the definition of employee, who suffers undeniable expansive processes in its substantive scope; second, the adaptation of the normative system to the demands imposed by new production methods. Arias Domínguez, A. "*¿Qué fue, qué era, qué es y qué será el Derecho del Trabajo?*", Laborum, Murcia, 2018, p. 36.

<sup>5</sup> Navarro Nieto points out that productive decentralization and self-employment are two phenomena that feedback. Hence, in these new scenarios, self-employed workers do not limit themselves to providing outsourced services, but they rather facilitate their integration and coordination within the business production chain. Navarro Nieto, F.: "*El trabajo autónomo en las 'zonas grises' del Derecho del Trabajo*", International and Comparative Review of Labour Relations and Employment Law n°4, 2017, p. 60-61.



connection between effective occupation and remuneration. This affects the volume of work assigned, as well as the remuneration of the employee's positive results<sup>6</sup>. In other words, the risks of the company are transferred to the employee. We could talk, therefore, about a job that is "self-generated" by the employee, since their availability and knowledge will give them certain status, which requires the standard of quality to be maintained over time in order to continue in that position.

The gig economy produces a transcendental change in the connection between employer and employee in the labour relationship because coordination replaces subordination. The employee is substituted by a self-employed worker, who is integrated as a necessary link in the flexible management of the production process and provides low-cost labour without having to comply with the Labour Laws. Therefore, self-employment contributes to the process of changing the way of companies operate. It consolidates "a "flexible" layer of labour that is characterized by unstable employment relationships, which can easily be terminated in the event of an economic recession and be restored when growth outlooks are more positive"<sup>7</sup>. The International Labour Organization (ILO) points out that the digital transformation will bring "a rise in new forms of self-employed work, it will become common for people to have side businesses, side jobs, or two jobs at the same time", thus contributing to expanding the heterogeneity of this group<sup>8</sup>. Therefore, we are facing a divergent situation given that the business reality tends towards coordination as a form of legal relationship while the normative reality and the court decisions attempt to include, even forcibly, these new ways of providing services into the labour scope as the only way to protect the needs of those who provide the services.

It is important to point out that the real debate will be to analyse the business model that is being developed and its impact on service provision, given that there are being "generated new types of workers that hardly fit into the

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<sup>6</sup> "Where the networked organization tends to replace the pyramidal organization, power is exercised in a different way: through an evaluation of the products of labour and not by means of orders over their content. This way, employees are more subject to results than to means. The consequence is a greater flexibility in the execution of the job and a release of its capacity for initiative ". AAVV: "Trabajo y Empleo. Transformaciones del trabajo y futuro del Derecho del Trabajo en Europa", Supiot (Coord.), Tirant lo Blanch, Valencia, 1999, p.47.

<sup>7</sup> This is referred to in the Opinion of the European Economic and Social Committee on 'Abuse of the status of self-employed' (own-initiative opinion) of 19 January 2013 (2013 / C160 / 03). DOUE of 6 June, 2013.

<sup>8</sup> Synthesis Report of the National Dialogues on the Future of Work International Labor Organization, 2017, Spanish Version p. 46, available at [www.ilo.org](http://www.ilo.org)

structure that the Labour Law has developed through its historical evolution"<sup>9</sup>. The evolution of the labour concept of worker must be analysed considering that we can no longer speak of a single type of employee. Therefore, the solution to the problem of regulating employment should perhaps be approached from a broader perspective<sup>10</sup> in which there are rights that protect the worker regardless of the legal qualification of the contract. The need to reformulate or update the concept of subordinate worker in connection with the vertiginous proliferation of forms of border self-employment is leading to what many have already qualified as a subordination crisis. It has been suggested that the Labour Law should be transformed into the Law of professional activity.

## 2. Labour Flexibility and New Technologies: The Effect on the Labour Relationship

One of the most visible effects of the flexibility promoted by European institutions, which aim for a work organization capable of responding rapidly and efficiently to new needs and on mastering the necessary capacities to increase production<sup>11</sup>, has been "the thinning of companies"<sup>12</sup> by outsourcing activities either through traditional companies, multiservice companies or self-employment. In parallel, the intensive use of new technologies has led to new

<sup>9</sup> Goerlich Peset, J. M.: *¿Repensar el derecho del trabajo? Cambios tecnológicos y empleo*, Gaceta Sindical n° 27, 2016, p. 179. u

<sup>10</sup> There are authors who wonder if in the current job market and in the labour world in general we can clearly distinguish between subordinate work and self-employment, relying only on the worker's dependence on the employer. Seghezzi, F.: *Siamo sicuri che il mondo si divide tra autonomi e dipendenti? en Verso il futuro del lavoro. Analisi e spunti su lavoro agile e lavoro autonomo*, Dagnino, E. and Tiraboschi, M. (editors), Adapt Labor Studies no. 50, 2016, p. 12; Riesco Sanz, A.: "Trabajo, independencia y subordinación. La regulación del trabajo autónomo en España", International Journal of Sociology, vol. 74, No. 1, 2016, p. 2, among others.

<sup>11</sup> Communication from the Commission of the European Communities "Hacia los principios comunes de la flexiseguridad: más y mejor empleo mediante la flexibilidad y la seguridad", COM (2007) 359 final. Brussels, June 27, 2007, p. 5. Un estudio crítico sobre el concepto comunitario de flexiseguridad in Martínez Abascal, V. A.: "La idea de flexiseguridad en el ámbito de la Unión Europea", in *El modelo de flexiseguridad en el ordenamiento español*, Magazine of the Ministry of Employment and Social Security, extraordinary number, 2018

<sup>12</sup> In the words of Romagnoli companies "grow slimming", hence faced with the fact a company that assumes the entire production process generalizes a system of coordination or subordination between business units, then outsourcing of the production is therefore no longer an option but a necessity. This organizational formula has had a full impact on the way workers are integrated into production processes. Esteve Segarra, A.: "Externalización laboral en empresas multiservicios y redes de empresas de servicios auxiliares", Tirant lo Blanch, Valencia, 2016, p. 19-20.

forms of productive organization such as online<sup>13</sup> and off-line<sup>14</sup> Crowdwork (also called 'human cloud'). The best known example is the work done on demand via Apps (UBER, Deliveroo, Glovo, etc.) characterized by the worker having decision-making power before the start and while carrying out the service, which the worker has committed to doing. This form of organization is revolutionizing the traditional dimension of companies as it is no longer necessary "to provide an estimated number of workers to meet the recurrent offer of services"; it is just necessary "to have a pull of potential providers who can connect in real time with the recipients of such services"<sup>15</sup>.

The legal qualification of these ways of providing services with high organizational flexibility is not, however, a recent problem of our legal system. The novelty lies in how essential aspects of providing services are conceived. Freedom in determining working hours, decision-making capacity, retribution according to results, and substitution of the provider are aspects that identify the new work relationships. The nature and content of which is what allows the use of certain contractual relationships, which contribute to better adapting companies productive and organizational needs.

In this context, friction is caused by the widespread resource of self-employment as a way of instrumentalizing the bond that connects the employer with the worker. Its bases lie in the lower costs involved in hiring and the lower social protection of those hired, as the legislator has traditionally given less attention to this group of workers compared to salaried employees. The result, normatively speaking, is a situation of legal anomy that obliges the courts to delimit, through interpretation, the scope of those elements that should define the inclusion of these new ways of providing of services in the field of subordinate work or, on the contrary, in the sphere of private law. Thus, large doctrinal sector has begun to question whether dependence and

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<sup>13</sup> Online Crowdwork consists in dividing the provision of services into a multitude of micro tasks that require a very short time for their execution. This reduces the time of production, due to the fact that what was previously done by a single worker, is now executed in a shorter time by a multitude of workers. The worker enters the platform and decides what micro-task they will perform, receiving a micro-compensation for the performed task.

<sup>14</sup> These are services rendered physically and therefore of a local nature. In the classification proposed by Codagnone and others, the Mobile Labor Market (MLMs) integrates those services contracted through digital platforms whose providers have a low qualification and whose qualification as self-employed is often incorrect. Codagnone, C., Abadie, F., Biagi F.: "The future of work in the" sharing economy ". Market efficiency and equitable opportunities or unfair precarisation? Publications Office of European Union, 2016, available at [www.ec.europa.eu](http://www.ec.europa.eu).

<sup>15</sup> Agote, R.: "On demand economy: 10 claves de entendimiento laboral". IUSlabor 1/2017, p. 5

subordination are adequate concepts for defining the new ways of working<sup>16</sup>. The importance of this delimitation is due to the need to establish a concept of worker that allows adequate protection against atypical ways of working<sup>17</sup>, and promote decent work conditions<sup>18</sup>. Let's remember that the promotion of innovative ways of working that guarantees quality working conditions comes from the European Pillar of Social Rights. A task that is hampered by the lack of a Community concept of worker, "given that the diversity of national legal systems and the interpretation and application of Labour Law by the Court of Justice of the European Union (CJEU), hinders the creation and harmonization of a common European law in relation to the coverage of Labour Law"<sup>19</sup>. In addition, it appears that the one who requests and evaluates the work is the client, the market, the offer and demand<sup>20</sup>.

In this analytical process, we must take into account that the jurisprudence has been guided by an expansive tendency that attempts to avoid the exclusion of those workers who have a certain autonomy in the execution of their work from the Labour Law scope. There are numerous examples in Spanish jurisprudence in which the courts have given a labour qualification to the work

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<sup>16</sup> Sagardoy De Simón, Iñigo and Núñez-Cortés Contreras, P.: "Economía colaborativa y relación laboral: ¿un binomio conflictivo?", Cuadernos de Pensamiento Político, January-March 2017, p. 96-98; Mercader Uguina, J. R.: "El nuevo modelo de trabajo autónomo en la prestación de servicios a través de plataformas digitales", Diario La Ley Unión, July 11, 2017, p. 9-11; Ginés i Fabrellas, A.-Gálvez Durán, S.: Sharing economy vs Uber economy y las fronteras del Derecho del Trabajo: la (des)protección de los trabajadores en el nuevo entorno digital, Indret n° 1, 2016, p. 36; Auvergnon, Philippe: "Angustias de la Uberización y retos que plantea el trabajo digital al Derecho Laboral", Revista de Derecho Social y Empresa n° 6, 2016, p. 11-14; Tiraboschi, M.-Del Conte, M.: "Employment contract: Disputes on definition in the changing Italian labour law", available at [www.jil.go.jp/english/events/documents/clls04\\_delconte2](http://www.jil.go.jp/english/events/documents/clls04_delconte2)

<sup>17</sup> A classification of these is included in the "Non-standard employment around the world" report. Understanding challenges, shaping prospects", elaborated by the International Labour Organization (ILO), Geneva, 2016, p. 8 and ss. Available at [ilo.org](http://ilo.org).

<sup>18</sup> The ILO has adopted this term in its Declaration on Fundamental Principles and Rights at Work (1998) with the aim of promoting productive employment which protects the rights, not only of paid employees but also of those who are self-employed and the activities included in the so called informal economy. For a complete study of this concept *vid.* Gil y Gil, J. L.: "Concepto de trabajo decente", Relaciones Laborales núm. 15-18, 2012.

<sup>19</sup> Sánchez-Urán Azaña, M. Y.: "Concepto de trabajador en el Derecho de la Unión Europea. Una aproximación sistemática y un enfoque propositivo ", 2017, copy, p. 7. Regarding the absence of a Community concept of self-employment *vid.* Rodríguez Egío, M.: " Hacia un trabajo autónomo decente", Bomarzo, Albacete, 2016.

<sup>20</sup> Report of the judgement n° 1737 of November 28 of the Court of Cassation (Labour Division) of Paris ECLI: FR: CCASS: 2018: SO01737, p. 10. This judgement clarifies the legal nature of the legal relationship between a deliverer and the TAKE EAT EASY platform.

carried out in a context of organizational<sup>21</sup> and schedule<sup>22</sup> independence, with professional autonomy<sup>23</sup>, with ownership of the necessary means of production<sup>24</sup> and in situations in which the worker has the capacity to decide on their own replacement<sup>25</sup>. We can also observe this tendency in others countries<sup>26</sup>. Definitely, the *vis attractiva* that the Labour Law has brought with it is "an invasion of foreign territories endangering their identity and traditional boundaries"<sup>27</sup>. Therefore, the limits between autonomy and subordination are particularly complex nowadays, especially if we consider that coordination is the most prominent feature in new ways of working compared to the classical subordination. Thus, we find ourselves before a situation of legal uncertainty and deregulation, given the confusing parameters that are being used to determine the legal nature of new forms of employment stemming from digitization. It is therefore necessary to define the boundary between autonomy and employment more precisely.

### 3. Legal Subordination as a Delimiting Criterion of Employment and its Presence in the New Forms of Work

In view of the diversity of ways of working and the high degree of abstraction of some of the characterizing elements of labour, jurisprudence has confirmed their appreciation through casuistry, and has been forced to consider the authenticity of the facts. A circumstance that allow judges "to evolve the boundaries of salaried work according to social and economic changes without the need of a legislative reform"<sup>28</sup>. However, in our opinion, this evolution may

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<sup>21</sup> Judgement of the Supreme Court (Labour Division) dated 23 November 2009 (RJ 2010/1163).

<sup>22</sup> Judgement of the Supreme Court (Labour Division) dated 20 January, 2015 (RJ 2015/456)

<sup>23</sup> Judgement of the Supreme Court (Labour Division) dated 19 February, 2014, Rec.3205 / 2012 (RJ 2014/2075)

<sup>24</sup> Judgement of the Supreme Court (Labour Division) no. 44/2018 dated 24 January, Rcd.3595 / 2015 (RJ 2018/817).

<sup>25</sup> Judgement of the Supreme Court (Labour Division) no. 902 / 2017 dated 16 November, Rec.2806 / 2015 (RJ2017 / 5543)

<sup>26</sup> As an example Supiot, A.: "Les nouveaux visages de la subordination", Droit Social n° 2, 2000

<sup>27</sup> Ojeda Avilés, A.: La "externalización" del Derecho del Trabajo, International Labor Review, vol. 128, 2009, No. 1-2, p. 51.

<sup>28</sup> Auvergnon, Philippe: "Angustias de uberización y retos que plantea el trabajo digital", Revista Derecho Social y Empresa n° 6, 2016, p. 15. It should be noted that the problem lies, as López Cumbre correctly points out, in the fact that this integrating tendency towards subordinate work occurs "in a context in which the legal system is not capable of guaranteeing the basic rights of workers. Contracts of short duration, extended days, reduced salaries ... show the deterioration of an apparently protective but unfulfilled regulatory framework".

be leading to an overly broad reconsideration of the boundaries of employment, particularly regarding the requirements of subordination. Therefore, the legal classification of new forms of employment is based on an unstable terrain in which this material reality is not always subject to a peaceful judicial interpretation.

The predominant doctrinal tendency attributes subordination as the delimiting criteria of employment because it is "a characteristic and unique note of Labour Law with respect to the note of alienation also present in civil and business contracts"<sup>29</sup>. Understood as the integration of a worker into the organizational, management and disciplinarian circle of the entrepreneur, the virtual nature of subordination, which is manifested in its ability to transform before the new economic realities, makes it an intensely mouldable concept capable of including virtually any new manifestation of work born from technological advances and productive decentralization.

In the Spanish system, if the response given to the interpretation of subordination in the "traditional" provision of services<sup>30</sup> has been ambiguous,

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López Cumbre, Lourdes: "Start-ups y capitalismo de plataforma: renovación o adaptación de los presupuestos laborales" en *Starts-up, emprendimiento, economía social y colaborativa. Un nuevo modelo de relaciones laborales*, López Cumbre (Dir.), Revuelta García (coord.), Thomson Reuters Aranzadi, 2018, p. 107.

<sup>29</sup> Sierra Benítez, Esperanza M: El tránsito de la dependencia industrial a la dependencia digital: ¿qué derecho del trabajo dependiente debemos construir para el siglo XXI?, *International and Comparative Review of Labour Relations and Employment Law*, n° 4, 2015, p. 9.

Also, an importance indicated by judicial doctrine for whom "dependence is the most decisive backbone of the labour relationship" (Judgement of the Supreme Court of 14 May 1990 (RJ 4314/1990). The European Commission, in their Communication "A European agenda for the collaborative economy" places subordination as a key criterion for defining of the labour relationship, COM (2016) 356 Final, June 2, 2016, p. 13-14.

On the other hand, Ugarte Cataldo wonders about how subordination has become the cardinal notion of Labour Law, considering that the answer is simple: it does not arrive, but rather is born with the Labour Law. Ugalde Cataldo, José L: "La subordinación jurídica y los desafíos del nuevo mundo del trabajo", *Labour gazette*, vol. 11, No. 1, 2005, p. 24

<sup>30</sup> The Supreme Court (SC) has followed a contradictory interpretative line when they have examined the presence or absence of subordination in border areas with the Labour contract. The SC has considered some circumstantial facts of dependence, such as, among others, the employee's work performance; the insertion of the worker in the organization of the employer who is responsible for scheduling their activity, setting their working hours and schedule; the absence of freedom to reject the work tasks and that the work is performed following the employer's orders and instructions. Therefore, the SC understands in some cases that if the worker is not subject to a fixed schedule it does not imply that is not a labour relationship, when this schedule is integrated within the hours of attention to the public of the establishment in which the work was carried out (Judgement of the Supreme Court (Labour Division) no. 381 / 2018 of 10 April (RJ 2018/1858)). In others, the SC has indicated that the absence of fixed schedules is an indication that points to the inexistence of the labour relationship (Judgement of the Supreme Court (Labour Division) of 26 November 2012 (RJ

the delimitation in the new forms of employment that have emerged from the platform economy are even more complex. To this date, there are few judgements that analyse the nature that should be given to the worker who provides services on digital platforms. The first judgements qualify the services provided for the TAKE EAT EASY platforms (Barcelona)<sup>31</sup> and DELIVEROO (Valencia)<sup>32</sup> as labour relationships. They consider that when companies set a minimum remuneration require a time slot in which the services must be provided, indicate to the workers how they should carry out deliveries or control them by means of a GPS, they are exercising the powers inherent to their status of employers.

However, regarding the company GLOVO (Madrid)<sup>33</sup>, the judge rejected the labour nature of the provision of services because the workers are free to choose their working days and schedule, and are free to accept or reject of the

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2013/1076)). The free acceptance or not of entrusted assignments is also subject to different interpretations. In the case of the translator who freely decides not to provide the offered service, the judge understands that, indirectly, the worker runs the risk of not being called again, so that freedom does not really exist, concluding that we are facing an criteria of a labour relationship (Judgement of the Supreme Court (Labour Division) no. 902/2017 of 16 November (RJ 2017/5543)). The SC did not take into account the low value of the work tool when it declare as a non-labour relationship the provision of services of the musician who supplies their instrument (Judgement of the Supreme Court (Labour Division) no. 862/2017 of 7 November (RJ 2017/5692)), but it did describe the relationship between a driver and the transport company as a labour relationship due to the fact that the contribution of the vehicle itself did not have the necessary economic relevance since the personal work of the driver is what predominates (Judgement of the High Court of Justice of Valencia no. 2908/2016 of December 23 (JUR 2017/40857)).

<sup>31</sup> Judgement of the Labour Court no. 11 of Barcelona (No. 213/2018) of 29 May. In it, the relationship that unites the workers with the Take Eat Easy Company is declared as a labour relationship, since they are subject to exclusivity, have a guaranteed minimum compensation, use the tools and work clothes previously provided by the company, are subject to a disciplinary regime under which the commission of four infractions leads to the termination of the contract and finally, the company plans the work shifts that a chosen by the workers four weeks in advance as well as their vacations.

The same qualification is contained in judgment n° 1737 of 20 November, 2018 of the French Court of Cassation (labour division), considering that the worker of Take Eat Easy was subjected to a system of geolocation that allowed the platform to monitor the worker's position in real/time as well as the possibility to be subject to the power of sanction, both manifestations of the company's power of direction.

<sup>32</sup> Judgement of the Labour Court no. 6 of Valencia (No. 244/2018) of 1 June. The relationship between deliverers and Deliveroo was declared a labour relationship when it was verified that the company exercised a power of direction (when determining the conditions of the provision of services), control (since the workers are geolocated) and sanction (by penalizing the disconnection during the time slot or rejection of assigned orders).

<sup>33</sup> Judgement of the Labour Court no. 39 of Madrid (num.284 / 2018) dated September 3, 2018.

orders without penalty, the worker provides the work tools and assumes the risk and venture, depending on the retribution of the orders placed, considering that the geolocation of the worker and the scoring system established to assign the orders are not controlled or sanctioned. Therefore, these are not indications of subordination of the worker<sup>34</sup>. The judgement confirms that the existing formal reality between the parties is linked through a TRADE<sup>35</sup> activity contract.

The complexity in the legal qualification of the digital worker is evident in subsequent judgements referring to the same company. Thus, while the Judgement of the Labour Court of Madrid dated 11 January 2019 again considers the GLOVO delivery as TRADE, the Judgement of the Labour Court of Madrid dated 11 February 2019 and the Judgement of the Labour Court of Gijon dated 20 February 2019 qualifies the employee as a salaried employee. In both, the basis is the necessary role played by the distributors of putting the supplier and the final customer in contact in with each other. The worker is not free to decide the time and duration of their service and prior acceptance must be made for the assignment to be assigned "since GLOVO has such a wide range of distributors willing to work, [so] the absence of some of them is automatically replaced by the presence of others". They also consider that as a self-employed worker the distributor would have little chance of success without the technical support and exploitation of the brand that provides the platform, denying the relevant economic value of the material tools used (vehicle and mobile) compared to the costs involved in the application (App). The most noteworthy element of these last judgements is that they attribute the worker with the status of employee directly without previously analysing whether a true TRADE, relationship exists between the parties. Thus, they obviate the existence of this intermediate category of workers who move between self-employment and subordination as well as the material and formal adaptation of the contract signed between the deliverer and the company GLOVO. However, months later the Judgement of the

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<sup>34</sup> Most of the labour doctrine holds a contrary opinion. Beltrán de Heredia believes that "the assignment of tasks based on a score / prior assessment is clear evidence of the subordination to the power of management and organization, so that the truly particular of this type of platform is voluntary "passivity" business to exercise the sanctioning power and / or termination power". Entry of his blog "Riders de Deliveroo: son trabajadores por cuenta ajena" (05.06.2018) available at [ignasibeltran.com](http://ignasibeltran.com)

<sup>35</sup> The worker held the status of self-employed economically dependent and was linked to the company Glovo by an activity contract. The economically dependent self-employed worker (TRADE) is the self-employed worker who provides services predominantly for a company from which they obtain at least 75% of their income. This situation of economic dependence confers a special protection being the recipient of a set of rights established in Chapter III of Law 20/2007 of July 11, regulating the Self-employment's Statute.



Labour Court of Barcelona dated 21 May and 29 May 2019 (both rendered by the same judge) qualified the provision of services between the deliverer and GLOVO as a non-labour relationship because the worker had an organizational capacity of their own. The deliverers are free to carry out the itinerary with the means of transport of their choice, without a specific area assigned to them, without a schedule set by the company and it is the deliverer who selects the days and slots in which to work, they are able to reject orders, obtaining a variable retribution depending on the deliveries made. In neither of these judgments was the reality of the TRADE contract signed between the parties analysed, because they only had to affirm that the services workers provide the Glovo platform do not imply a labour relationship.

The latest judgements have been the Labour Court of Madrid on 22 July 2019 (DELIVEROO), the Labour Court of Salamanca on 25 July 2019 (GLOVO) and Judgement of the High Court of Justice of Asturias (Oviedo) on 25 July 2019 (GLOVO). In the first, 532 workers were qualified as employees, since the court understands that the dependency and alienation notes are present when the company predetermines the conditions of execution of the service. In addition, it considers that the workers were completely oblivious to existing commercial relations between the company (DELIVEROO) and the restaurants and final customers. With respect to GLOVO, the Judgement of the Labour Court of Salamanca reconfirms the TRADE status of the delivery person because the material and formal reality expressed in the contract signed by the parties coincide. Lastly, the Judgement of the Supreme Court of Justice of Asturias (Oviedo) confirmed the labour relationship between a worker and Glovo declared in the Labour Court of Gijon previously commented. The High Court of Justice considers that the control that the worker is subjected to and his weak bargaining power place him in the field of a labour relationship.

The digital worker also involves this complexity in other legal systems. In France, the Court of Cassation (Labour division)<sup>36</sup>, reversed the first instance ruling, and held that the delivery person was subject to an employment contract because they were monitored with a geolocation system by the platform (TAKE EAT EASY), which could determine the worker's position and count the Kilometres they travelled. The contribution made by the Advocate General is interesting here, as he indicated that the workers do not register as entrepreneurs to find clients but to work for the platform. Regarding freedom of work, he considers that it is only an indicator of non-subordination without being able to displace all other indices of the labour

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<sup>36</sup> Judgement n° 1737 of 28 November 2018 (Labour division). Available at [https://www.legifrance.gouv.fr/affichJuriJudi.do?oldAction=rechJuriJudi&idTexte=JURITE\\_XT000037787075&fastReqId=602365964&fastPos=1](https://www.legifrance.gouv.fr/affichJuriJudi.do?oldAction=rechJuriJudi&idTexte=JURITE_XT000037787075&fastReqId=602365964&fastPos=1)

relationship. The same occurs in the following judgements. If digital workers are initially described as independents contractors<sup>37</sup>, the subsequent instance requalifies their contracts and declares them within the protective scope of labour law<sup>38</sup>.

In the United Kingdom, the Employment Tribunal of London in 2016<sup>39</sup> described the UBER driver as a worker when it is understood that subordination element concurs because the worker only provides services for UBER and the company determines the terms of the work and is able to modify them unilaterally. In 2017, the Central London Employment Tribunal<sup>40</sup> considered a rider as a worker. The analysis of the conditions of carrying out work showed that the rider submitted to the company's power to manage and direct them. In particular, it is indicated that the worker personally provides the services. However, in Australia the UBER drivers are not considered as employees because they are free to decide when, where and for whom they work<sup>41</sup>. Nor are Grubhub deliverymen and UberBLACK drivers considered employees in the judgements of the Northern District Court of California and Northern District Court of Pennsylvania<sup>42</sup>. These courts emphasized the little control the company has over the workers, and therefore considered them to be independent contractors. Finally, in Italy, the judgement of the Labour Court of Turin<sup>43</sup> denied the condition of employee of five riders who provided services for the FOODORA Company on the understanding that the contract of coordinated and continued collaboration was not distorted by the workers decisions on how they did their job and related to the company. This qualification was slightly corrected later by the judgement of the Court of Appeal of Turin<sup>44</sup>, which, without modifying the qualification of the riders,

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<sup>37</sup> Judgement of Court of Appeal of 9 Paris November, 2017 (DELIVEROO); Judgement of Court of first Instance 29 January, 2018, available at [www.legifrance.gouv.fr/initRechJurijudi.do](http://www.legifrance.gouv.fr/initRechJurijudi.do)

<sup>38</sup> Judgement of Court of Appeal of Paris 13 December, 2017 (LeCab), Judgement of Court of Appeal of Paris 10 January, 2019 (UBER) and Judgement of Court of Appeal of Nice 22 January, 2019 (TAKE EAT EASY). In this case, the Tribunal, again, took into account that workers were subject to a geolocation system to qualify them as employees. Available at [www.legifrance.gouv.fr/initRechJurijudi.do](http://www.legifrance.gouv.fr/initRechJurijudi.do)

<sup>39</sup> Judgement 28 October 2016 (Aslam vs Uber). Available at <https://www.judiciary.uk/wp-content/uploads/2016/10/aslam-and-farrar-v-uber-reasons-20161028.pdf>

<sup>40</sup> Judgement 5 January 2017 (Dewhurst vs CitySprint). Available at [https://www.clydeco.com/uploads/Blogs/employment/Dewhurst\\_and\\_CitySprint\\_1.pdf](https://www.clydeco.com/uploads/Blogs/employment/Dewhurst_and_CitySprint_1.pdf)

<sup>41</sup> Judgement of the Fair Work Commission 21 December 2017. Available at [www.fwc.gov.au](http://www.fwc.gov.au)

<sup>42</sup> Judgement 8 February 2018 and 11 April 2018, respectively.

<sup>43</sup> Dated on 7 May 2018. Available at [www.bollettinoadapt.it/wp-content/uploads/2018/05/7782018.pdf](http://www.bollettinoadapt.it/wp-content/uploads/2018/05/7782018.pdf)

<sup>44</sup> Dated on 11 January 2019. Available at [http://questionegiustizia.it/doc/sent\\_corte\\_app\\_torino\\_26\\_2019.pdf](http://questionegiustizia.it/doc/sent_corte_app_torino_26_2019.pdf)

declared that they are entitled to the remuneration established in the national agreement of the Logistics and Merchandise Transports Sectors. As indicated by SUPLOT, we are witnessing a new reality in which "employment leaves room for what may be called self-employment in subordination, while, reciprocally, the non-salaried work has opened up to what can be called loyalty in independency"<sup>45</sup>. In this productive context dominated by technology and productive decentralization, we must ask ourselves what it means within the framework of the 4.0 economy to be subject to the directive power of another in providing services. What degree of subordination would be necessary to be qualified as a salaried employee?

### *3.1. What Degree of Subordination is Necessary to Configure a Provision of Services as a Labour Relationship?*

The legal construction of subordination led to the configuration of self-employment and salaried employment as antagonistic. A conception that can be questioned in the current context given that the recourse to productive decentralization has led to circumstances in which independence and non-responsibility are at the same level, where the provision of services is characterized by the autonomy of the provider but also by the non-responsibility of the company that outsources the service<sup>46</sup>. A dependent person may not receive orders or be obliged to comply; however, a person may be subject to comply even when they are not economically dependent<sup>47</sup>. Thus a (new?) category of workers is generalized, the self-employed with non-responsibility. This obliges us to define the legal limits of subordination more clearly, especially considering that the opposite phenomenon is also observable in this digitalized context: subordinates who act with a high degree of freedom. It is evident that we cannot assess the defining criteria of the labour relationships as they were formulated in the 20th century. All of which leads us to rethink the scope of subordination in new ways of working. New technologies allow easy and quick access to labour given the wide range of providers that are willing to work. They give the worker a capacity for initiative regarding the object of the service provided when they can decide whether to provide the service or not, the terms and what type of service will be provide

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<sup>45</sup> Supiot, Alain: "Les nouveaux visages de la subordination", Droit Social, 2000, p. 133

<sup>46</sup> As Cruz Villalón warns, "these manifestations of productive decentralization where there is a self-employment with non-responsibility but without dependence are those that today cause greater difficulty in delimiting the boundaries between both regulations." Cruz Villalón, Jesús: El concepto de trabajador subordinado..., op. cit. P. 27

<sup>47</sup> Auzero, Gilles y Dockès, Emmanuel: "La qualification "contrat de travail" in Droit du Travail, ed. Dalloz, 30<sup>e</sup> ed., 2016, p. 235

by unilaterally activating or deactivating the contractual relationship. These aspects do not adequately fit into the notion of subordination. However, organizational flexibility has as counterpoint a limited negotiating capacity in terms of the specific form of execution and in relation to the amount of remuneration. These factors can be seen not only in the employment but also in self-employment, especially in the case of a self-employed worker who provides services for large distribution companies. Therefore, it is necessary to distinguish between contractual weakness and economic dependence<sup>48</sup>. Consequently, that the worker does not the price of their services and that they are paid by the digital platform does not change their status as a self-employed worker, given the position of contractual inferiority in which the workers may find themselves.<sup>49</sup>

If we assume that the employment definition criteria apply strictly to this provision of services that are endowed with such wide margins of flexibility, we would be configuring an imperfect subordination that would denaturalize the concept of employment, because it is possible to activate or deactivate the labour relationship without the worker first determining the terms for the providing the services. The Spanish legal system (article 1256 of the Civil Code) prohibits that the compliance to contracts is subject to the discretion of one of the contracting parties.

It should be considered that the Directive on transparent and predictable working conditions<sup>50</sup> aims to regulate the minimum rights of workers subject to extraordinarily flexible work organization. It states that when the pattern of work is totally or mostly unpredictable, the employer will inform the worker about the hours and days in which the employer can ask the worker work (article 4.2.m, ii), understood as “reference hours and days”, which are “the time slots in specified days during which work can take place at the request of the employer.” (article 2.b). The paradigm of work freedom has been shaped by the European Community regulation from a negative perspective: the worker cannot be forced to work unless two conditions are met: a) that the work is provided in predetermined reference hours and days, and b) that the

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<sup>48</sup> Vid. De Boüard, Fabrice: "La dépendance économique née d'un contrat", LGDJ-Montchrestien, Paris, 2007.

<sup>49</sup> See in this regard the regulation (EU) 2019/1150 of the European Parliament and the Council on promoting fairness and transparency for business users of online intermediation services in its second recital states that professional users are increasingly dependent on online intermediation services providers to reach consumers, so they often have a superior bargaining power that allows them to act unilaterally in a way that can be unfair and that damage the interests of professional users.

<sup>50</sup> Directive (EU) 2019/1152 of the European Parliament and of the Council of 20 June 2019 on Transparent and Predictable Working Conditions in the European Union (Official Journal of the EU 11 July 2019).

employer informs the worker of the task to be carried out with reasonable notice. The lack of one or both of these requirements determines that the rejection of the assigned task does not cause unfavourable consequences for the worker. It is therefore allowed that the worker has freedom of decision regardless of this being based on the previous existence of a contractual relationship that imposes on the employer the duty to inform the worker of the task to be performed with reasonable notice. It refers to a relationship that the Directive does not qualify being limited to stating that it aims to establish the minimum rights applicable to all the workers in the European Union who have an employment contract or an employment relationship as defined in the regulations of each Member State.

In our opinion, if the employer offers the worker a provision of service in a few predetermined days and hours, this is a form of employment that is different to that promoted by the business model that is developed through digital platforms. In the platforms economy it is the worker who formulates the offer expressed in the prior connection to the platform or in the indication of the time slots in which they will be connected and, therefore, available to work. Hence, digital workers are included within the scope of this Directive and thus to have the minimum rights contained therein they must be previously qualified as salaried employees. Therefore, once again we come full circle to the beginning. Without a concept of worker adapted to the current technological and productive context, articulating adequate legal protection involves multiple difficulties.

The delimitation of a broad concept of subordination and thus facilitating the regulation in the labour law of these groups of workers is connected to some particularly controversial contractual modalities. For example, there are the zero hour contracts and on-demand contracts that do not quantitatively define the hours of work that are due by the worker. The worker is also subject to a required work availability that invades the worker's personal and family spheres. At this point, these contracts must be endowed with strong protective measures, all of which, almost certainly, will lead us to a new escape from the Labour Law and the abuse of false self-employment.<sup>51</sup>

We concur with the proposal of a doctrinal sector that advocates for the redirection of the *vis attractiva* of the Labour Law, so that those provision of services in which there is no subordination and dependency with enough

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<sup>51</sup> The Directive on transparent and predictable working conditions also stipulates that the Member State that allows these contracts must ensure that effective measures are taken to prevent abuse. In particular, it is mentioned the establishment of a legal presumption of employment with a guaranteed salary and with the limitation of its use or its duration (Article 11). It restates later that in no case should this regulation serve as a basis for the introduction of zero hours contracts or similar employment contracts.

notoriety are not recognised as work<sup>52</sup>. The synallagmatic nature of the employment contract generates mutual obligations under which the employer is not obliged to indemnify the worker if the latter has not performed the work agreed upon. Therefore, it requires a prior determination of the work time. Definitely, those services provided through digital platforms in which the worker has absolute freedom to decide whether or not to provide services and to set the duration of their working hours should not be classified as work benefits.

#### **4. A Look Towards Economically Dependent Self-employment and its Existence in the New Types of Employment**

A doctrinal option that has not been explored so far regarding the qualification of the provider of services in digital platforms is the one that places it in the scope of economically dependent autonomous work. A hybrid category of worker, between autonomy and subordination, which is contemplated in different countries with a different scope and social issue<sup>53</sup>. This option would eliminate some of the main open debates regarding the way of providing services, especially those related to freedom of work and organization that are attributed to the worker. We do not reject that it would also raise others, fundamentally those related to the infra social and legal protection that has traditionally been granted to these workers.

When the provider of the service receives individualized work orders before acceptance, with the power to determine the duration of their provision of services, being able to reduce the time pre-established by the company by disconnecting or rejecting work without penalty, receiving mere technical indications for carrying out the work, responding for the result of their work and being subject to a technological control that does not reasonably exceed what would be necessary to verify the fulfilment of the accepted job assignment to the satisfaction of the client, they should be qualified as a self-employed worker. In this area, if that autonomy to do the work is predominantly due to a digital platform and from it the worker obtains all or most of his/her economic income, their legal qualification should be economically dependent self-employed worker. A figure that, despite its

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<sup>52</sup> In this regard, Garrido Pérez, Eva: La representación de los trabajadores al servicio de plataformas colaborativas, Social Law Magazine No. 80, 2017, p.230-232.

<sup>53</sup> In Germany through the figure of a quasi-salaried worker (*Arbeitnehmerähnliche person*); in the United Kingdom through the category of *worker*; In Italy, through the *parasubordinated work*; and in France, where through the reform of the Labour Code introduced by Act n° 2016-1088 of 8 August, digital workers are provided protection when they exercise their professional activity for several platforms (art. L-7341-1 and following).

shortcomings, will make it possible to reconcile the particularities of the new production models with the necessary protection of the providers of these services.

The economically dependent worker is defined by reference by two key requirements: one, they are self-employed workers, hence they have greater freedom in the decision-making process than the salaried employee regarding when, how much, how and for whom to work; and two, they are economically dependent workers, so the provider of the service is out of the market, being in a situation of not only economic but also contractual weakness due to the almost exclusive relationship with the client, from which the worker depends on to obtain most of his/her economic income.

The figure of economically dependent worker was introduced into the Spanish legal system through the Law 20/2007 of 11 July, regarding the Self-Employed Workers' Statute ("LETA" in Spanish). Since its entry into force, its dispositions have been criticized given that who provides services for another, with organizational and functional independence but with a strong economic dependence due to the fact that the worker obtains from the client at least 75% of his/her income, should have been integrated into the subjective scope of application of the Labour Law as a labour relationship of a special nature. This was not the option of the legislator who considered that the independence that characterizes these workers should prevail over their economic dependency. However, the legislator endowed them with a set of minimum rights similar to those recognized by salaried workers. After a little more than twelve years of its validity, we can affirm that it is a slightly used<sup>54</sup> figure given its deficient legal regulation, so the opportunity should be taken to reconfigure self-employment in general, and especially the economically dependent type.

The widespread presence of self-employed workers in the business model arising from digital platforms responds to the competitive advantages that it offers, since it allows combining flexibility with lower social costs. Based on this, the legislative and court responses should not be to reject the qualification of digital workers as self-employed workers opting for an indiscriminate incorporation in the labour system. As MERCADER UGUINA points out, "the reality presented by professional platforms can find a precise fit in the figure of the economically dependent autonomous worker. Therefore, it is a figure that can be reborn in view of the new digital economy"<sup>55</sup>. However, it is necessary to provide these workers with better guarantees, which will allow

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<sup>54</sup> The latest statistical data reveal that only 9,055 workers are registered as TRADE. Self-employed workers, natural persons registered in the Social Security. Summary of Results. 30 September 2019. Available at [www.mitramiss.gob.es](http://www.mitramiss.gob.es).

<sup>55</sup> Mercader Uguina, Jesús R.: "El nuevo modelo de trabajo autónomo en la prestación de servicios..."*op.cit.* p. 11 (electronic format).

them to carry out their activity in decent conditions and with a broader social protection than the one that they currently have. Therefore, social dumping would be avoided, since what is happening is an escape from salaried work towards self-employment as well as from dependent self-employment to common self-employment. A situation that affects the competitiveness of the companies themselves, since those that are organized in the traditional way support higher costs linked to labour protection than those currently supported by digital platforms for their workers.

The freedom of work enjoyed by these self-employed but economically dependent workers must be compatible with the establishment of a professional regime based on minimum rights related to working hours, breaks, vacations, compensation, reconciliation of personal and professional life and collective protection of their interests, among others. Definitely, a regulation that equalizes the protection between employees and economically dependent autonomous workers should be opted for including a contribution regime that foresees the possible realization of a part-time autonomous activity.

### **5. Conclusion: What is Important and Urgent for the Future of Employment?**

The traditional scheme of subordinate work does not respond adequately to the reality of the new business models that are being developed through digital platforms. Therefore, the solution should not focus on an overflowing extension of the subjective scope of the Labour Law; but rather it should focus on the complete opposite, the labour concept of subordination must be reformulated based on more defined criteria, avoiding, the intrusion into similar contractual figures or undermining of the nature the salaried work.

It is possible to configure a legal regime of digital workers with a greater autonomy and protection than the one currently available to the group of self-employed workers. It should be taken into account that the way of contracting is not the only thing changing, the way how many workers want to be hired is also changing by as they give more value to organizational independence than to the durability of the contractual relationship<sup>56</sup>. It is therefore necessary "to recap the fundamentals of Labour Law. We are so used to resorting to labour

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<sup>56</sup> This is commented in the document prepared by the German Federal Ministry for Labour and Social Affairs, which states that not only technology is transforming reality; changes in preferences and social values are also being made as workers would like to have more flexibility and personal control over their time in certain phases of their lives. Federal Ministry for Labour and Social Affairs: "Re-imagining work. Green Paper, work 4.0 ", March 2017



legislation that we have forgotten its fundamental motivation: the welfare of the worker"<sup>57</sup>.

At this point, given the complexity of the subject, it is necessary to distinguish what is important and what is urgent about the future of employment. The important thing will be to reformulate the concept of worker, updating it, taking into account the demands of the new productive models. It is necessary to draw a line between autonomy and work based on better defined legal criteria, providing both with equivalent protection so that "in any case, they cause a convergence of costs, so that the decision of tracing a line between one and another regime would not be that traumatic"<sup>58</sup>.

What is urgent is to avoid workers' precariousness due to a false self-employment as an instrument of contractual agreement. There are many workers who expect a legal response to their situation. The avoidance of the Labour Law is not fought with more labour relationships. If the abuse of self-employment is a consequence of the lower costs involved in its use, the course of action must be to raise the level of social protection of those who provide their services on digital platforms, introducing and guaranteeing a minimum remuneration equivalent to the minimum wage existing in salaried employment and making these companies civilly liable for the insufficiencies and deficiencies of their working conditions.

The time will soon come, however, when the law will have to adapt. The question is how and how far?<sup>59</sup>

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<sup>57</sup> Tirole, Jean: *La economía del bien común*, Taurus, 2017, p. 450.

<sup>58</sup> Cruz Villalón Jesús: "El concepto de trabajador subordinado frente a las nuevas formas..."op. cit. p.30.

<sup>59</sup> Study made by the European Parliament "The cost of non-Europe in the sharing economy. Economic, social and legal challenges and opportunities", 2016, available at [www.europarl.europa.eu](http://www.europarl.europa.eu), p. 16.

# The Importance and Challenges of Caregiving in an Aging Society

Diane-Gabrielle Tremblay and Sarah Nogues<sup>1</sup>

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## **Abstract**

**Purpose** – The article presents the results of research on working time arrangements available and support offered to caregivers by employers and community organizations.

**Design/methodology/approach** – Both a quantitative and qualitative approach has been employed.

**Findings** – There are limited working time arrangements offered to caregivers, but community support that could help caregivers is not well known or used by them.

**Research limitations/implications** – The research on community organizations highlights the fact that these should try to make their support services better known. And a ‘right to request’ flexible working arrangements could also be useful.

**Originality/value** – The paper focuses on the problems of employed caregivers, which are found in most aging societies nowadays, including the EU.

**Paper type** – Qualitative and analytical paper.

**Keywords** – *Caregiving, Aging, Caregivers, Carers, Women’s work, Domestic work, Working time arrangements, Flexible work, Right to Request.*

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<sup>1</sup> Diane-Gabrielle Tremblay (corresponding author: [dgtrembl@teluq.ca](mailto:dgtrembl@teluq.ca)) is Professor of Human Resources Management and Labour Economics, and Director of the ARUC sur la gestion des âges et des temps sociaux, at Université TÉLUQ, part of Université du Québec (Canada). Sarah Nogues is Research Assistant in the ARUC Center, at Université TÉLUQ, part of Université du Québec (Canada). The research received the support of the Social Sciences and Humanities Research Council of Canada (SSHRC).

## 1. Introduction

Although many people find it both important and satisfying to care for a loved one going through a loss of autonomy, the role of caregiver creates a number of tensions and, above all, for many women, difficulties in staying employed. In this context, employers and community organizations can be an important source of support for caregivers, but these resources appear to be little known. As we were concerned with the issue of caregiving in a context of aging societies, as well as with the issue of work-life reconciliation in general<sup>23</sup>, we looked into the situation of caregivers in particular and did some research on the support that can be offered by businesses and community organisations. Three major findings emerged from our research: 1) companies claim they offer measures but are not aware of the special needs of caregivers, in relation to other work-family needs (for example, children) and they often consider they are doing these people a favour in supporting them, without having real support strategies for caregivers; 2) community-based organizations could help caregivers reconciling work with caring for a relative; 3) we found that community services are not well known to caregivers, and perhaps some are reluctant to use them, or they do not always correspond well to needs. Let us start by presenting a picture of the situation of caregiving, to understand its importance, and then look at the measures that can be offered by business-organizations, before moving on to the option of communities' support.

## 2. Aging and Increasing Caregiving

In Canada, as in many other industrialized nations, demographic changes are significant and an aging population is one of the major elements that accompany it. For example, in Canada in 2015, the number of people aged 65 and over exceeded the number of children aged 0 to 14 in the population for the first time<sup>4</sup>. Aging is accompanied by an increased risk of disease and the number of people dependent on others<sup>5</sup>. Often, given the limited amount of

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<sup>2</sup> D.G. Tremblay, *Conciliation emploi-famille et temps sociaux*, 4th ed., Presses de l'Université du Québec, Québec, QC, 2019.

<sup>3</sup> D.G. Tremblay, *Articuler emploi et famille – Le rôle du soutien organisationnel au cœur de trois professions (infirmières, travailleuses sociales et policiers)*, Presses de l'Université du Québec, Québec, QC, 2012.

<sup>4</sup> Statistics Canada, *Annual Demographic Estimates – Canada, Provinces and Territories, 2015*, <https://www150.statcan.gc.ca/n1/pub/91-215-x/2015000/aftertoc-aprestdm1-eng.htm> (accessed September 19, 2019)

<sup>5</sup> Y. Decady, L. Greenberg, *Ninety Years of Change in Life Expectancy, Health at a Glance*, Statistics Canada, 2014, <https://www150.statcan.gc.ca/n1/pub/82-624-x/2014001/article/14009-eng.htm> (accessed September 19, 2019)

public resources in many countries, it is the family, and often women in fact, that are the main resource for the care of elderly people who are either losing their autonomy, sick or dependent<sup>6</sup>. It is these family members, or the wider social network including neighbours and friends, who are referred to as close caregivers.

Since the majority of these people is employed<sup>7</sup>, they often experience tensions associated with the difficult articulation between their care responsibilities and their professional responsibilities, which is costly for individuals and society alike<sup>89</sup>.

Our research has shown that women in employment who are also close caregivers start by reducing their hours of work, and then, if they still can't reconcile work and care responsibilities, they end up quitting their jobs. Our detailed interviews with caregivers captured the case of women retiring earlier than expected because of care duties, resulting in financial difficulties especially when the person cared for was the spouse<sup>10</sup>. Given the continuing aging of populations, the shortage of labour in many sectors, including women's sectors (health, education, hospitality, catering, etc.), as well as women's desire to remain employed, it is important to find solutions, which is why we have been interested in the support that the community sector can offer.

Indeed, while the support of supervisors and colleagues is important in the workplace, companies are not really aware of the difficulties associated with caregiving, they have little or no specific policies or practices in this regard and believe that the general measures offered in the company are sufficient for work-life reconciliation in general, as for caregivers. However, the necessary support is not always provided, and in general, employers are not very aware of the issue and challenges related to caregiving for elderly or sick parents (Figure

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<sup>6</sup> J. Lamontagne, M. Beaulieu, *Accompagner son conjoint âgé en soins palliatifs à domicile – Les éléments influençant l'expérience des proches aidants*, in *Nouvelles pratiques sociales*, 2006, vol. 19, n.2, 142-156.

<sup>7</sup> M. Sinha, *Portrait of Caregivers, 2012, Spotlight on Canadians – Results from the General Social Survey*, Statistics Canada, 2013, <https://www150.statcan.gc.ca/n1/pub/89-652-x/89-652-x2013001-eng.htm> (accessed September 19, 2019)

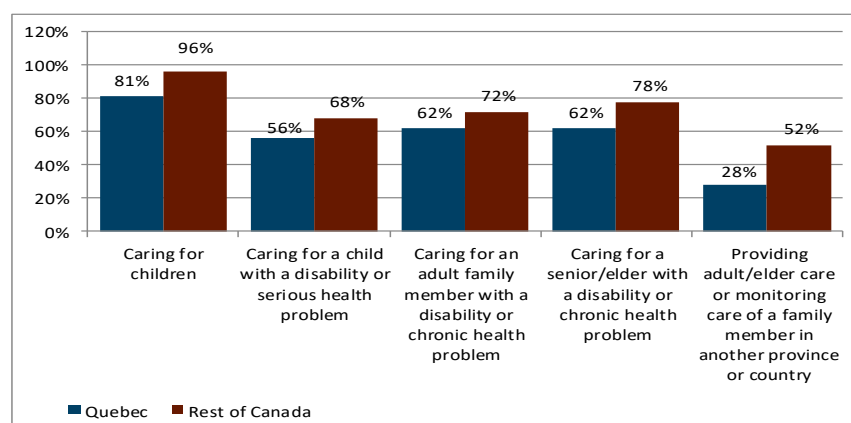
<sup>8</sup> L. Duxbury, C. Higgins, B. Schroeder, *Balancing Paid Work and Caregiving Responsibilities – A Closer Look at Family Caregivers in Canada*, Human Resources and Skill Development Canada, 2009, [http://rcrpp.org/documents/51061\\_EN.pdf](http://rcrpp.org/documents/51061_EN.pdf) (accessed September 19, 2019)

<sup>9</sup> J. Fast, D. Lero, N. Keating, J. Eales, K. Duncan, *The Economic Costs of Care to Employers – A Synthesis of Findings (research document)*, Employment and Social Development Canada, 2014a, [https://www.worklifecanada.ca/cms/resources/files/678/Economic\\_Costs\\_of\\_Care.pdf](https://www.worklifecanada.ca/cms/resources/files/678/Economic_Costs_of_Care.pdf) (accessed September 19, 2019)

<sup>10</sup> S. Noguez, *Concilier emploi et soins à un proche dépendant: Du soutien organisationnel et personnel au soutien communautaire*, 2018, Masters thesis, École des Sciences de la Gestion/School of Management, UQAM, Montreal, QC.

1), much less than they are for responsibilities related to children. Moreover, they do not make the issue of caregiving a priority as our data has shown that only half of the surveyed employers indicate it is a priority, while the other half consider that they are doing employees a favour in trying to meet their expectations<sup>11</sup>. It is also noted that caregiving is less familiar to firms than issues of parenting or care for young children (Figure 1). Also, in any case, the workplace does not actually offer adequate or sufficient measures, according to our interviews with family caregivers<sup>12,13,14</sup>, even though companies claim to have put in place a certain number of measures (Figure 2). Given this situation, it is important that other resources help caregivers so that they can stay in employment, should they want to do so.

**Figure 1. Employers' Experiences with Employees Who Have or Are Currently Providing Various Types of Care<sup>15</sup>**



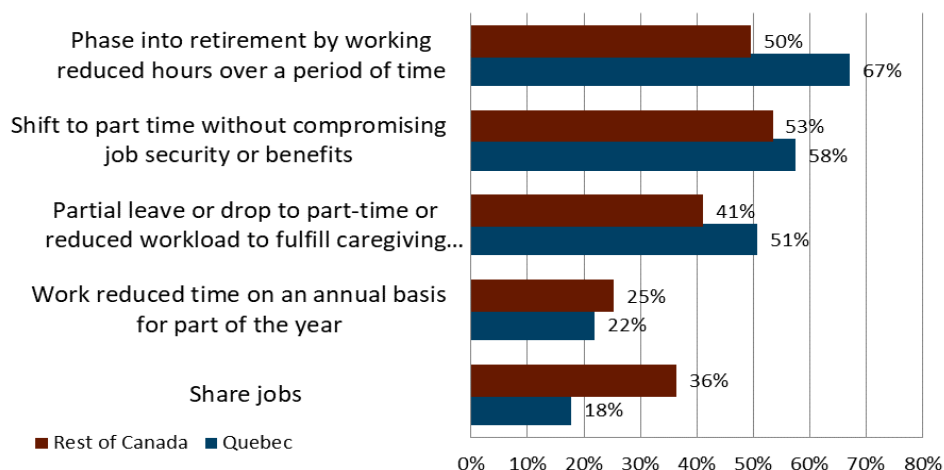
<sup>11</sup> D. Lero, N. Spinks, J. Fast, M. Hilbrecht, D.G.Tremblay, The Availability, Accessibility and Effectiveness of Workplace Supports for Canadian Caregivers – Final Report, Vanier Institute of the Family, 2012, [https://www.worklifecanada.ca/cms/resources/files/703/The\\_Availability,\\_Accessibility\\_and\\_Effectiveness\\_of\\_Workplace\\_Supports\\_for\\_Canadian\\_Caregivers.pdf](https://www.worklifecanada.ca/cms/resources/files/703/The_Availability,_Accessibility_and_Effectiveness_of_Workplace_Supports_for_Canadian_Caregivers.pdf) (accessed September 19, 2019)

<sup>12</sup> D.G. Tremblay, Conciliation emploi-famille et enjeux d'inclusion sur le marché du travail – Le cas des travailleuses proches aidantes, Presented at the conference *Pour une approche inclusive du travail et de la formation*, Tours, France, April, 2019a.

<sup>13</sup> S. Nogues, D.G. Tremblay, La conciliation emploi-famille-soins : Analyse comparative des besoins et du soutien organisationnel, in *Nouvelle Pratiques Sociales*, 2018, vol. 30, n.1, <https://doi.org/10.7202/1051410ar>

<sup>14</sup> S. Nogues, D.G. Tremblay, Concilier travail et soins à un proche au Canada : quel soutien des acteurs communautaires? In *Canadian Journal of Research on NPOs and Social Economy*, 2017, vol. 7, n.2, 17-39.

<sup>15</sup> Retrieved from D. Lero et al., 2012, *op. cit.*

**Figure 2. Flexibility and Reduced Work Options<sup>16</sup>**

Yet, very few researchers have looked at community resources as a possible source of support for employees who are also close caregivers. We found that, despite a relatively diverse community support offer, only a minority of caregivers uses these services. The problem keeps on growing but it already concerns many Canadians, and many people in other industrialized nations.

The 2012 Canadian General Social Survey (GSS) indicated that 13 million Canadians aged 15 and over, or almost half of the population (46 per cent), had cared for a dependent relative at least once in their lifetime<sup>17</sup>. Between 2011 and 2012, 8.1 million Canadians experienced care responsibilities, i.e. for support in day-to-day tasks (household chores, transportation), for physical and medical care (bathing, accompanying to the toilets, administering medicines) or for administrative assistance, including property management<sup>18,19</sup>. According to the GSS, caregivers spend on average three hours per week caring for a loved one, but this varies considerably depending on the type of care and gender. For example, it would be 10 hours a week when caring for a sick child and up to 14 hours to care for a spouse. In addition, women spend

<sup>16</sup> *Idem*

<sup>17</sup> M. Sinha, 2013, *op.cit.*

<sup>18</sup> K.L. Davis, D.B. Marin, R. Kane, D. Patrick, E.R. Peskind, M.A. Raskind, K.L. Pudler, The Caregiver Activity Survey (CAS) – Development and Validation of a New Measure for Caregivers of Persons with Alzheimer’s Disease, in *International Journal of Geriatric Psychology*, 1997, vol. 12, 978-988.

<sup>19</sup> B. Van den Berg, P. Spauwen, Measurement of Informal Care – An Empirical Study into the Valid Measurement of Time Spent on Informal Caregiving, in *Health Economics*, 2006, vol. 15, 447-460.

on average more hours caring than men<sup>20</sup>. In some cases, the number of hours is almost equivalent to a second full-time job. In fact, 60 per cent of caregivers, or 4.8 million Canadians,<sup>21,22</sup> combine care with paid employment.

Finally, the majority of caregivers who have a job is part of what is called the 'sandwich' generation, because they also have parental responsibilities with children.<sup>23</sup>

Given the scope of their responsibilities, caregivers unsurprisingly show higher rates of fatigue, muscle pain, and heart and chronic disease than non-caregivers<sup>24,25</sup>. They also face higher levels of stress, depression and guilt<sup>26</sup>. Moreover, they are prone to impoverishment, especially among women, who often reduce their working hours or leave their jobs to care full-time<sup>27, 28</sup>. In 2012, this represented an estimated loss of CAD\$220.5 million for women and CAD\$116.3 million for men in Canada.<sup>29</sup>

All of these challenges experienced by caregivers, who make up about 30% of the Canadian workforce<sup>30</sup>, also have negative effects on businesses. Some authors<sup>31</sup> estimated the cost of the turnover rate associated with caregiving for Canadian employers at CAD\$3.8 billion. Scholars also reported that in 2012 in Canada, 9.7 million workdays were lost, 256 million hours of work were reduced and 557,698 employees left the labour market to care for a loved one<sup>32</sup>

However, employment is important for caregivers. Indeed, in addition to securing an income, which is of paramount importance, having a job allows

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<sup>20</sup> M. Sinha, 2013, *op. cit.*

<sup>21</sup> J. Fast et al., 2014a, *op. cit.*

<sup>22</sup> M. Sinha, 2013, *op. cit.*

<sup>23</sup> D.G. Tremblay, 2019b, *op. cit.*

<sup>24</sup> L.N. Bialon, S. Coke, A Study on Caregiver Burden: Stressors, Challenges, and Possible Solutions, in *American Journal of Hospice and Palliative Medicine*, vol. 29, n.3, 210-218.

<sup>25</sup> A. M. Williams, L. Wang, P. Kitchen, Impacts of Caregiving and Sources of Support: A Comparison of End-of-life and Non-end-of-life Caregivers in Canada, in *Health and Social Care in the community*, vol. 24, n.2, 214-224.

<sup>26</sup> L. Duxbury et al., 2009, *op. cit.*

<sup>27</sup> M. B. Lilly, A. Laporte, P. Coyte, Labor Market Work and Home Care's Unpaid Caregivers: A Systematic Review of Labor, in *Milbank Quarterly*, vol. 85, n.4, 641-690.

<sup>28</sup> Lilly, Laporte and Coyte, 2007, *op.cit.*; Sinha, 2013, *op. cit.*

<sup>29</sup> Fast, 2015, *op. cit.*

<sup>30</sup> *Ibid.*

<sup>31</sup> Fast, Lero, Keating, Eales and Duncan, 2014, *op. cit.*

<sup>32</sup> J. Fast, D. Lero, R. DeMarco, H. Ferreira, J. Eales, Combining Care and Paid Work : Is it Sustainable? Research on Aging, Policies and Practice (RAPP), Edmonton, 2014b, [https://rapp.ualberta.ca/wp-content/uploads/sites/49/2018/04/Combining\\_care\\_work\\_and\\_paid\\_work\\_2014-09-16.pdf](https://rapp.ualberta.ca/wp-content/uploads/sites/49/2018/04/Combining_care_work_and_paid_work_2014-09-16.pdf) (Accessed October 24, 2019)

one to experience something outside the caring activity, to be valued and to maintain contact with other people.

#### 4. Support for Caregivers

Canadian caregivers can benefit from government financial assistance, with the Family Caregiver Tax Credit, amounting to a maximum of CAD\$6,986 in 2018<sup>33</sup>, or compassionate care benefits that allow an employee to take six months off to accompany a loved one at the end of life, at a maximum of \$562 per week<sup>34</sup>. Under certain conditions, non-end-of life caregivers are entitled to two days of paid leave, employment insurance benefits for caregivers. However, beyond that, many would need more regular support. In this regard, community actors can play an important role in helping caregivers navigate healthcare services<sup>35</sup>. There is no shortage of services, but rather an underutilization of these services according to several authors, and that is also what we have observed in our research. In addition, it appears that there is some reluctance on the part of caregivers to use such services, because they often feel compelled to help their parents or relatives themselves<sup>36,37</sup>. There may also be an overdose of information discouraging the search for help<sup>38</sup>. Scholarship has highlighted other factors explaining this underutilisation of services<sup>39</sup>, which we also found in our interviews: the heaviness or difficulty of the caring situation, the intensity of the needs of the person cared for, as well as caregivers' own personal organization capacities and proactivity in looking for help and finding adequate resources. In our research, we have tried to

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<sup>33</sup> Government of Canada, The New Canada Caregiver Credit, 2018, <https://www.canada.ca/en/revenue-agency/services/tax/individuals/topics/about-your-tax-return/tax-return/completing-a-tax-return/deductions-credits-expenses/canada-caregiver-amount.html> (accessed September 19, 2019)

<sup>34</sup> Government of Canada, Employment Insurance Caregiving Benefits and Leave: What Caregiving Benefits Offer, 2019, <https://www.canada.ca/en/services/benefits/ei/caregiving.html> (accessed September 19, 2019)

<sup>35</sup> B. Schroeder, J. McDonald, J. Shamian, Older Workers with Caregiving Responsibilities – A Canadian Perspective on Corporate Caring, in Ageing International, 2012, vol. 37, 39-56.

<sup>36</sup> J.R. Robinson, A. Fortinsky, N. Kleppinger, N. Shugrue, M. Porter, Caregiving and Caregiver Conditions on Depressive Symptoms, Health, Work and Social Isolation, in Journal of Gerontology: Social Sciences, 2013, vol.64B, n.6, 788-798.

<sup>37</sup> S. Nogues, 2018, *op. cit.*

<sup>38</sup> B. W. Winslow, Family Caregivers' Experiences with Community Services – A qualitative Analysis, in Public Health Nursing, vol. 20, n.5, 341-348.

<sup>39</sup> R. Pepin, A. A. Williams, L. N. Anderson, S. H. Qualls, A preliminary Typology of Caregivers and Effects on Service Utilization of Caregiver Counseling. In Aging & Mental Health, vol. 17, n.4, 495-507.



determine how community actors contribute to the work-family balance of caregivers, and how they support them in their caregiving journey

## 5. Our Results on Community Support

We have chosen to investigate how employed caregivers benefit from community support through the lens of social support theory. Social support is found through various social ties with other individuals, groups and the wider community<sup>40</sup> and is broadly characterized as an exchange of emotional and instrumental resources as a response to a given need<sup>41</sup>. While emotional support typically refers to verbal exchanges and active listening, instrumental support is rather focused on concrete assistance<sup>42</sup>. Regarding the methodology of our research, we opted for an exploratory design involving in-depth interviews with caregivers (23) and others with representatives of community organizations (12).

We have seen that while community services can be a resource to facilitate caregiving work, they are not always well known. Yet community services can provide respite for caregivers. In addition, emotional support through listening and counselling can reduce tension and help caregivers stay in employment, especially when there is no other support, in the workplace or elsewhere. This community support can be particularly important because it can keep employed caregivers stay in employment and not to have to reduce their hours, as we have seen in our interviews with women offering more than 20 hours of care per week. Furthermore, our results indicate that the emotional support provided by the community, through one-on-one meetings or peer support groups, is mainly used at times of crisis (exhaustion or burnout) or after retirement.

We found that employed caregivers mostly use respite and household services from community organizations and are much less likely to take part in the socialising activities offered by community organizations, while the latter consider that these activities (e.g. psychosocial help, peer support groups) are very important resources for caregivers facing a myriad of challenges.

Our research allows us to conclude with three main observations: on the one hand, our results show that companies are not doing everything they should to support caregivers, at least these people feel that the measures and support are insufficient and not always adapted to their situation. As a result, as noted

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<sup>40</sup> N. Lin, Building a Network of Social Capital, in *Connections*, 1999, vol. 11, n.1, 28-51.

<sup>41</sup> S. G. Cohen, Gottlieb, B. H. et Underwood, L.G., Social relationships and health, in S. Cohen, L.G. Underwood, B.H.Gottlieb, B. H. (eds), *Social Support Measurement and Intervention*, Oxford University Press, New York, 2000, 3-25.

<sup>42</sup> J. S. House, *Work Stress and Social Support*, Addison-Welsey, 156 p.

above, caregivers, especially women, will often reduce their hours of work and eventually end up quitting their jobs prematurely. On the other hand, the community sector is still relatively unknown to the public and caregivers, despite its importance in the Quebec and Canadian economy, and possibly as well in other countries. However, caregivers who are employed and add their caring responsibilities on top of their job, do not seem to participate in activities offered by the community sector, such as psychosocial or peer support, but rather mostly look into the services similar to those offered by the public services (household, respite), which are not always sufficient and can be costly.

## 6. Final Words on Workplace Accommodation and the ‘Right to Request’ Flexible Work

In the workplace, recent changes in Canada Labour Code (applicable only to Canadian companies covered by this code, and not to all Canadian companies) have granted employees the right to formally request their employer accommodations in order to attend to various life concerns. This ‘Right to request’ flexible work, which came into force on September 1, 2019 in Canada<sup>43</sup>, has been in force for several years in the UK, New Zealand and Australia, as well as some States of the US. Considering the importance of flexible work options (e.g. flextime, telework, compressed workweek, time off in lieu, etc.) for caregivers<sup>44,45</sup>, this right appears as an important progress in terms of employee accommodation, which is why we questioned in a previous work whether it would be particularly useful for employed caregivers<sup>46</sup>. While our review of existent findings revealed little evidence of positive impacts of this law according to studies led in various workplaces of Anglo-Saxon countries, a slight change was still observed towards a higher propensity of employers to grant more flexible options to employees in the UK, when

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<sup>43</sup> S. Todd, R. Devon, Sweeping Changes to the Canada Labor Code in Force September 1, 2019 – Federal Employers, are you prepared? August 2019, <http://www.mondaq.com/canada/x/836608/employee+rights+labour+relations/OECD+Public+Consultation+Document+And+Public+Commentary+On+The+Tax+Challenges+Of+Digitalisation> (accessed September 19, 2019)

<sup>44</sup> M. Zuba, U. Schneider, What Helps Informal Caregivers? The Role of Workplace Characteristics in Balancing Work and Adult-Care Responsibilities, in *Journal of Family and Economic Issues*, vol. 34, 460-469.

<sup>45</sup> E.K. Pavalko, K. A. Henderson, Combining Care Work and Paid Care Work: Do Workplace Policies Make a Difference? In *Research on Ageing*, 2006, vol. 28, n.1, 359-374.

<sup>46</sup> S. Nogues, D.G. Tremblay, Le ‘Right to request flexible work’, un instrument de politique favorable pour les employés proches aidants? In *Analyses de Politiques/ Canadian Public Policy*, 2017, vol. 43, n.4, 442-455.

considering larger datasets at the country level and over the course of several years.

Thus, the ‘Right to request’ concurs to foster a culture of accommodation and work-life balance more than it constrains employers in granting employees’ requests for flexible accommodation<sup>47</sup>. Indeed, this right is no guarantee that employees will obtain the requested accommodation from their employer, since the latter can reject the request based on various business grounds. This implies that employees working in certain industries and types of jobs which appear harder to accommodate (e.g. a frontline employee in a manufacture or in a service firm) will have fewer chances to benefit from workplace flexibility compared to others (e.g. a white-collar employee in a bank). There has thus been concern that the Right to request, while it may concur for a change in corporate culture towards a greater consideration and respect for employees’ lives outside of work, generates further inequalities in the workforce and cannot be considered as a law that really protects workers<sup>48</sup>. However, greater awareness of employee’s care-related needs remains an important outcome of this law, as it may invite managers and supervisors to be more understanding of, and more knowledgeable about, such situations, which in turn is likely to positively affect caregivers’ well-being at work through supervisor support<sup>49</sup>.

Given the growing proportion of caregivers in the workforce, more efforts should be done in the direction of accommodating employed caregivers. It seems important for employers to conduct anonymous surveys in order to determine what percentage of their workforce is providing care to a dependent adult or child with special needs, and what would these employees need the most in terms of accommodation. From there on, it would be beneficial to promote bundles of measures and practices (e.g. flextime, telework, care benefits, extended paid leaves, employee assistance program etc.) whereby employees would feel that they have a “safety net” allowing them to remain employed all the while pursuing their care duties<sup>50</sup>. Finally, from a public health prevention and promotion point of view, workplaces constitute ideal pools to target special groups of the population for interventions. Therefore, increased collaboration between businesses and the community is strongly advocated for,

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<sup>47</sup> See for instance: N. B. Skinner, B. Pocock, *The Persistent Challenge: Living, Working and Caring in Australia in 2014*, The Australian Work and Life Index, Centre for Work and Life, 2014, University of Meridional Australia, Adelaide.

<sup>48</sup> See for instance: A. Hegewisch, *Flexible Working Policies: A Comparative Review*, Research Report n.16 for the Human Rights commission, 2009, EHRC: Manchester.

<sup>49</sup> H. Zacher, H. Schultz, *Employees’ Eldercare Demands, Strain and Perceived Support*, *Journal of Managerial Psychology*, vol. 30, n.2, 183-198.

<sup>50</sup> S. Nogues, 2018, *op cit.*

in order to work towards a greater awareness of caregiving challenges, and towards more solutions for this major contemporary issue.

# Skills and Professions for a “Just Transition”. Some Reflections for Legal Research

Lilli Casano <sup>1</sup>

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## Abstract

**Purpose.** The aim of this paper is to bring back to the fore the decisive role of adequate measures for skills identification, development and recognition, in order to create labour market infrastructure capable of integrating sustainable development with decent work principles.

**Design/methodology/approach.** The analysis is based on a preliminary literature review and on the elaboration of an original, albeit provisional, theoretical framework.

**Findings.** Research has paid little attention to the legal and institutional arrangements promoting or preventing the formation of skills for a just transition.

**Research limitations/implications.** The paper presents the partial results of a preliminary study, yet laying the foundations for moving beyond the traditional approach promoted by research on “green jobs” and “green skills”, pointing out those legislative and institutional mechanisms which have been neglected in the literature to date.

**Originality/ value.** The paper puts forward some proposals for an original theoretical framework based on the integration between *Just transition* and *TLM (transitional labour market)* frameworks.

**Paper type.** Preliminary research paper.

**Keywords:** *Sustainability; Decent work; Skills identification, development, recognition; Professionalization processes; Career transitions; Occupational Health and Safety.*

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<sup>1</sup> Research Fellow in Labour Law at the “Marco Biagi” Department of Economics of the University of Modena and Reggio Emilia. Email address: lillicasano@gmail.com.

## 1. Environmental Sustainability and Decent Work: The Role of Skills Identification, Development and Recognition

Environmental sustainability <sup>(2)</sup> has started to be analysed only recently in relation to its links with work and employment dynamics. Research concerns the impact that the diffusion of the “green economy” can have on employment structure, and the relationship between environmental sustainability and decent work, the latter being a perspective adopted by the ILO, among others.

The ILO’s *Greening with Jobs Report of 2018* (ILO, 2018) analyses the relationship between environmental sustainability and decent work, highlighting the following key issues: the urgency of promoting a synergetic development of sustainable economic, environmental and employment policy; the impact of environment degradation on occupational development (both in quantitative and qualitative terms), consisting of a progressive loss of jobs and a worsening of working conditions especially for the most vulnerable groups and in developing countries; the need to question the “decent work” dimensions connected to the transition towards a green economy, with reference to economic activities producing negative externalities on so-called “ecosystem services”, on other workers and on society as a whole, as well as in relation to the decent work dimension of new job opportunities.

These concerns form the basis for the concept of a “Just Transition”, that means assuring that the costs of environmental change towards sustainability are shared fairly and not wholly devolved onto workers in targeted industries and their communities <sup>(3)</sup>. The ‘Just Transition’ framework intercepts work regulation at different levels: from the consideration of the employment factor during the planning of a climate change response measure; to the preparation of the transition of the workforce; to the implementation and the assessment of the effect of the transition. Among the elements to be considered for a just transition of the workforce to maximize the positive impacts and minimize the negative effects, consultation and social dialogue and training and skills development, alongside social protection and security, are of pivotal importance <sup>(4)</sup>.

The ILO’s guidelines *for a Just Transition to Environmentally Sustainable Economies and Societies for All* (ILO, 2015) detailed nine key policy areas and institutional

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<sup>2</sup> For a discussion of the notions of sustainability or sustainable development see Kullmann (2018).

<sup>3</sup> On the idea of a Just Transitions Law, combining “insights from environmental law, environmental justice, and labour law” see Doorey (2016).

<sup>4</sup> See UNFCCC, “Just transition of the workforce, and the creation of decent work and quality jobs” (October 2016) <http://unfccc.int/resource/docs/2016/tp/07.pdf>.

arrangements, through which environmental, economic and social sustainability can be addressed:

- i. Macroeconomic and growth policies;
- ii. Industrial and sectorial policies;
- iii. Enterprise policies;
- iv. Skills development;
- v. Occupational safety and health;
- vi. Social protection; vii. Active labour market policies;
- viii. Rights; and
- ix. Social dialogue and tripartism.

However, research on these dimensions is still lacking, especially in labour law, because for a long time work and the environment have been considered as conflicting realities (Zbyszewska, 2018).

Only recently have labour law scholars begun to address the need to integrate the dimension of environmental sustainability into work regulation models. This occurred in the context of a general rethinking of the discipline, in search for new founding principles more consistent with contemporary reality, among which sustainability in the broad sense acquired a prominent place. In this view, it has been suggested that the environmental dimension of sustainability can be embedded in labour law “without abandoning but instead reinvigorating the ideals of justice, equality, and democracy that justify the traditional and selective goals of the discipline” (Tomassetti, 2018a). Following this reasoning, “the alignment between traditional functions of labour regulation and the principle of environmental sustainability could be done with few policy and normative adjustments which incorporate environmental concerns into the traditional dynamics of labour law as aimed at combining efficiency/productivity with decent work” (p. 84).

Work regulation and environmental policies are unquestionably affected by a mutual impact. On the one hand, it is clear to what extent labour regulation (organisational and contractual arrangements inside companies) may affect environmental sustainability. Here the focus is on how to manage, especially on the industrial relations floor, issues such as energy consumption, the use of raw, the amount of waste, the incidence of logistics and transport costs in the supply chain and distribution, with a view to recover productivity and efficiency, increasing margins of profitability and, therefore, promoting redistribution and higher employment rates (Tomassetti, 2018a).

On the other hand, the consequences that economic policies promoting a just transition may have on employment structure have become evident. Targeted interventions in the field of labour market regulation are required to manage

employment tensions emerging from the transition to a low-carbon and resource-efficient economy, which directly affects the world of work through job creation, job destruction and occupational change (ILO, 2018).

It is not only a matter of regulating the matching between demand and supply to favour the transition from one sector to another and to support the development of the green economy.

Following the *Sustainable Development Goals* (SDGs)(UN, 2015) and the ILO's *Guidelines for a just transition* (ILO, 2015), skills development must be considered a key component of the response to environmental challenges that also promotes decent work, alongside social protection. Promoting tools and policies for the identification, development and recognition of skills is crucial not only in order to face different mismatch problems detected by the literature that dealt with green jobs and green skills (Bowen et al., 2018). By means of adequate skills development policies and interventions it is also possible to reduce factors determining new risks (not only related to the loss of employment, but also in the field of occupational health and safety, environmental and natural disasters) and possible discrimination (concerning lower opportunities to access jobs in the green economy for women and other vulnerable groups).

Despite the importance of identifying, training and recognising skills to facilitating the transition to a sustainable economy that advances decent work, an ILO survey covering 27 countries (ILO, 2018) has highlighted a number of policy challenges, such as the lack of capacity to collect data on skills for a green transition, the low level of awareness of environmental sustainability and the weak institutional mechanisms for policy-making and social dialogue, which prevent skills development from playing a stronger role in a just transition.

Specific programmes are often formulated in a few sectors, which are considered relevant for this transition (e.g. energy, agriculture), but the importance of modernising skills development regulation and policies and qualification systems is rarely taken into account as a cross-sectorial priority. From an economy-wide perspective, not only priority sectors, but all sectors have the potential for greening (ILO, 2013).

That is why there is an urgent need to improve understanding of the institutional mechanisms through which an impact on skills development for a green transition may be reached.



## **2. The Need for Further Research into Legal and Institutional Arrangements Promoting or Preventing Skills Formation for a Just Transition**

In the current debate, considerable attention has been paid to creating new jobs (e.g. green jobs), even though the discussion features excessive rhetoric. This aspect was examined in depth, mainly in terms of economic analysis, assessing the characteristics and distribution of new employment opportunities and developing projections, particularly at national level and by economic sector.

By way of example, several studies conducted in Italy have focused on developing projections on the diffusion of green jobs: in 2010, the IRES-CGIL piece of research titled “Climate change, energy efficiency and renewable sources: investments, employment impacts and new professional skills” mapped 54 new professions, distributed along a wide spectrum of qualification levels, including both specialised and non-specialised figures, often developed without specific training paths and credentials. The Excelsior Report on employment and professional needs carried out by Unioncamere and Anpal in 2018 confirmed that, in addition to the digital economy, the greatest demand for employment over the next few years will be in the field of eco-sustainability, a sector which, according to the GreenItaly Report of the Symbola Foundation and Unioncamere carried out in October 2018, already employs 3 million people in Italy, as much as 13% of the total number of workers.

In a research scenario which is mainly dominated by economic and quantitative studies, the “how to” dimension of skills identification, development and recognition, e.g. legal and institutional arrangements that can promote or prevent the formation of skills for a just transition, remains poorly explored (ILO, 2018; Cedefop, 2019; Pociovalisteanu et al., 2016; Rustico, Tiraboschi, 2010). When looking at the legal regulation dimension of the problem, a number of issues arise.

Save for some positive exceptions (Doorey, 2016; Tiraboschi, 2015; Tomassetti, 2018; Zbyszewska, 2018; Kullmann, 2018), the topic of a “just transition” has been under-researched by legal scholars (Doorey, 2016) and even more so by labour law pundits. Furthermore, no consistent body of research exists in the legal field covering the general issue of skills identification, development and recognition (Freedland, 1996; Casano, 2016). This is due to the unconventional nature of these issues for labour law academics, but also to the complexity of national legal frameworks (i.e. the overlapping of a number of normative tools at different institutional levels).

Low accessibility to information concerning the local level of intervention and the social partners' contribution further compounds the picture.

### **3. Understanding Professionalization Processes and Career-Path Determinants to Steer Future Research and Policies**

In parallel with analysing the impact of the ecological transition on the structure of employment, a consistent body of literature has dealt with the specific skills required of workers in the ongoing transformations (green skills). In this sense, divergent views exist, reflecting a certain degree of indeterminacy of the definition of “green jobs” itself (Bowen and Kuralbayeva, 2015; Winter and Moore, 2013; Furchtgott-Roth 2012). Even the position of EC institutions has been fluctuating, but now they seem to converge towards a combination of transversal and general competences which are also common to figures in other sectors (e.g. analytical and communication skills, forward thinking) along with specific “green” competences (e.g. environmental law, knowledge of eco-sustainable materials) developed according to one’s professional profile (Rustico, Tiraboschi, 2010).

The most in-demand professional profiles in the green economy and their level of specialization and qualification are also disputed issues. More recent studies have focused on the diffusion of “broadband” professional figures, which in the international literature are called “sustainability professionals”. The starting point is the assumption that it is necessary to introduce multi-purpose figures able to manage all round the theme of sustainability by mobilizing a wide and diversified set of skills (Spraul et al., 2019).

Nevertheless, the analysis focusing on the new skills and professional figures required in the transition to a green economy risks being affected by a high degree of vagueness in the current phase, as there is still uncertainty about the possible employment outcomes of the transformation underway. Green jobs vary in ‘greenness’ (the use and importance of green tasks), with very few jobs only consisting of green tasks, suggesting that the term ‘green’ should be considered as a continuum rather than a binary characteristic. Greening is likely to involve transitions on a similar scale and scope of existing job transitions. Although it is easier to move to indirectly green rather than directly green jobs, non-green jobs generally appear to differ from their green counterparts in only a few skill-specific aspects, indicating that most re-training can happen on-the-job. The green economy therefore has large potential for short-run growth, if job transitions are strategically managed (Bowen et al., 2018).

It is therefore fundamental, even before engaging in a descriptive overview of the skills required in specific sectors, to understand the mechanisms through

which new and old professional profiles are evolving, and new and old skills are identified, developed and recognised in different contexts.

In this respect, the specific professionalization processes in the green economy should be analysed. Professionalization processes can be defined as social processes whereby an occupation transforms itself into a true profession featuring the highest integrity and competence. Studying the existence and evolution of specific professionalization processes in the green economy is important, in consideration of the relevance of these occupations to the achievement of sustainable development goals. It is crucial to understand how these professionals act, perform their jobs, organise themselves to promote collective action, develop their competences and make them transparent and recognizable. Each professionalization process tends to establish norms of conduct and qualification of members of a profession, ensuring that members of the profession achieve conformity to the norm. The most typical professionalization process is that of liberal professions (which has been broadly analysed in sociological research) but recent studies show that atypical professionalization processes, which share some features with the traditional ones, though differing in important respects, are developing “new” professions in emerging occupational fields (Evetts, 2003; Maestripieri, 2017).

In the green economy, these processes are expected to differ depending on the job: by using the most common classifications of green and greening professions, one might expect that different professionalization processes are created considering the following: *Green Increased Demand* (Green ID) professions (existing jobs that are expected to be in high demand due to greening, but do not require significant changes in tasks, skills, or knowledge), *Green Enhanced Skills* (Green ES) professions (existing jobs that require significant changes in tasks, skills, and knowledge as a result of greening), and *Green New and Emerging* (Green NE) professions (unique jobs created to meet the new needs of the green economy) (Bowen et al., 2018). Understanding the functioning, similarities and differences between these professionalization processes can help one to set priorities for each qualification system, inform policy makers while contributing to the social partners’ strategies.

Considering that throughout their lifetime workers may change occupations more than once or require several numbers of job transitions to join the green economy, analysing long career paths can give further insights into one’s ease of transitioning and the long-run potential growth of the green economy. Career paths that start in non-green jobs and end in green jobs are of particular interest for policymakers. Even if jobs in ‘other’ categories are not directly linked to green jobs, workers in these occupations may eventually transition to a green job, by switching to one or more non-green jobs. Thus understanding the elements favouring this process is of crucial importance: this can be done

only by developing a qualitative, longitudinal analysis based on individual career paths.

#### 4. Occupational Health and Safety and Gender Mainstream

Drawing from the preliminary analysis of those studies which consider the relationship between sustainability and decent work referred to above, two dimensions should mainstream research in this field: the first deals with occupational, health and safety issues, while the second takes into account a gender perspective.

It has been underlined that jobs generated in the green economy are often characterized by a low level of qualification and by insufficient organization in terms of tools and strategies for risk prevention and protection (Moreira et. al., 2018). In this sense, the interconnection between the (external) “environment” and the “work environment” goes beyond the aspects already explored by labour law scholars (e.g. the provisions regulating OHS obligations depending on their environmental implications, environmental whistle-blowing, workers’ voice and participation rights, see Tomassetti, 2018), and overlaps the dimension of workers’ qualification. Training and information on health and safety should be considered as key transversal elements of qualification systems in all sectors, moving from a formalistic approach to a *person-centred* one, where appropriate tools and methodologies should be adopted in order to change company practices and workers’ mindset.

Yet the literature has shown the emergence of inequalities when accessing these jobs for women and other vulnerable groups (Haidù, 2010). Women are underrepresented in the green economy (Rustico, Tiraboschi, 2010; Zbyszewska, 2018b), and without targeted training, education, apprenticeships, employment placement, financial tools and supportive social policies, transitioning to a green economy may exacerbate existing gender inequalities. Considering gender as a significant variable within any research and policy formation process it is crucial because it provides specific perspectives, raises specific questions, helping one to better understand the problem.

However the gender dimension of the just transition seems to imply much more than this, if, following Zbyszewska (2018b), we consider that the environment “exclusion” from work regulation discourse, on the one side, and the exclusion of social reproduction work from the same discourse, on the other side, are entwined and are the result of the historical process of formation of labour law. Reconnecting work, the environment and the social dimension means reconsidering basic assumptions of work and labour market regulation models, and the concept of work itself (Tiraboschi, 2019). This leads to enlarging the scope and purpose of labour law - namely “what counts as

work” and “who deserves voice and protection” (Zbyszewska, 2018b) – an aspect that is consistent with the TLMT’s definition of “work” and “labour markets”.

### **5. Integrating the *Just Transition* with the *Transitional Labour Market Framework*: Some Preliminary Insights**

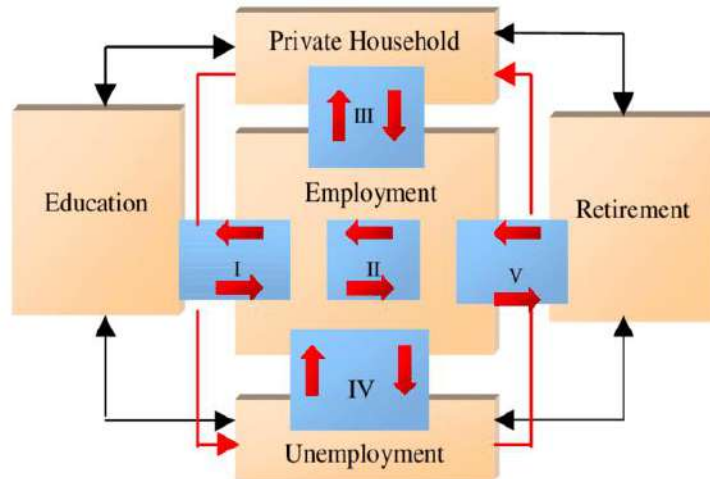
The “transitional labour market theory” (TLMT) (Schmid, 1998, 2009; Schmid, Gazier, 2002; Gautié, 2003) is based on the normative purpose promoting sustainable full employment (Gazier, 2010). This means creating a “new full employment norm” where employment regulation is connected with other crucial social spheres, viz.: lifecycle compatibility of family life, personal and professional life; gender equality; crossable and negotiated borderline between different forms of activities, sustainable development, from a social and environmental point of view.

The main policy recommendation of TLMT is that of supporting or creating “transitional labour markets”, defined as “*institutionalised arrangements which allow or support the change of the employment status or the combination of labour market work with other socially (and to some extent even economically) useful activities [...] Such transitional labour markets would also serve as a flexible buffer which expand in periods of recession and contract during booms*” (Schmid, 1998). Two central points mark TLMT, most notably: the suggestion to focus on “transitions” but also on the “positions” they start from and they lead to, in order to promote protected mobility. That means assuring that “stability poles” exist as safe arrival points for workers engaged into some mobility. Secondly, the attention to the key role played by the transferability of skills. Other central issues are: considering gender asymmetries, taking into account that women are involved in more and different transitions than men; considering protected mobility as a subset of work and employment quality, that implies taking into account all the dimensions of work quality, starting from safe working conditions; the role of the social partners in sharing information, negotiating decisions, and co-managing labour market institutions (Gazier, 2013).

The two frameworks (the *Just Transition* and the *Transitional Labour Markets* one) share important elements: the convergence of environmental and occupational concerns towards decent work principles; the need for an integrated approach in policy making; a multi-actorial and multi-sectorial approach with a strong role of the social partners and social dialogue at different institutional levels; the crucial role of skills identification, development and recognition; the attention to the gender dimension and to all aspects related to the promotion of work quality.

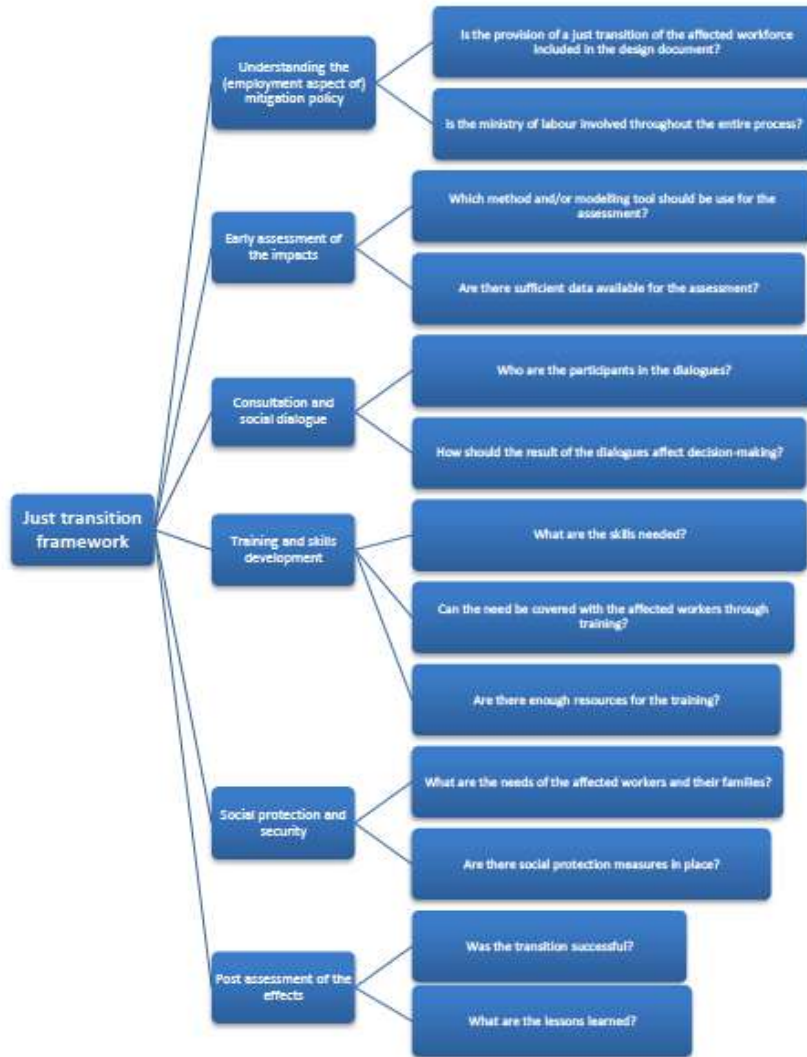
If we consider the green economy to be a field in which “good” transitional labour markets can be promoted, this framework can be used to investigate in detail the role of skills identification, development and recognition as a key element for promoting protected mobility. This would represent a first attempt to apply the TLM theoretical framework to the analysis of institutional mechanisms concerning several possible occupational transitions occurring in the green and sustainable economy, by focusing on the specific aspect of skills regulation. That implies an enlargement and a restriction of the scope of application of the original framework, opening new roots for research with this approach, which is gaining growing consensus in Europe due to its strictly connection with decent work perspective (Gazier, Gautié, 2011; Brzinsky-Fay, 2010).

Figure 1. The ‘Transitional Labour Market’ Framework



Source: Schmid and Gazier, 2002

Figure 2. Elements of a ‘Just Transition’ Framework



Source: UNFCCC, 2016, p. 26.

Integrating the framework of a Just Transition with TLMT means that, when it comes to considering aspects related to skills and training, the focus should be not only on which skills are needed and how to train workforce, nor on the functioning of single subsystems (education; training; workplace, etc.) used for skills individuation, development and recognition, but on those institutional mechanisms which are useful for the management of several transitions. They

include: the transition from education to employment and how to promote early professional guidance towards the green economy; the transition from one job to another (i.e. from non-green professions to green/sustainable professions, which require specific skills adjustment mechanisms); the transitions occurring in the so called “greening professions” (e.g. taking place within the same company or profession, shifting from a traditional set of skills to green skills); the transition from unemployment/inactivity to work by means of subsidised green jobs or activities and the role of non-market activities. Evidently, these mechanisms come with great complexity, due to the need to disseminate a holistic view among institutions, relevant actors, and labour market processes.

## 6. Conclusion

The present paper has attempted to bring the attention of academia and policy makers back to the role of measures promoting skills identification, development and recognition in order to promote a just transition. Integrating environmental law with labour law is not sufficient if new rules, tools and financial means are not implemented supporting the very first resource promoting a just transition: people’s professional skills and capabilities.

Research developed in the field of green jobs and green skills features an economic and quantitative approach which gives little attention to the “how to” dimension, i.e. proper legal and institutional mechanisms that promote or prevent the formation of skills for a just transition.

Our previous studies on the new labour market regulation models stemming from the ongoing transformation of work (Casano 2016, 2018) suggest that adopting the specific theoretical framework of “transitional labour market theory” (TLMT) could help one challenge the traditional quantitative approach employed in this field. That would imply regarding labour markets no more as places where the matching of demand and supply of specific skills takes place, but as “open social systems” where multiple actors cooperate in order to create the conditions for a just transition.

Setting up a research programme of this kind requires first and foremost mapping and analysing effective tools and regulation techniques, focusing on: the integration between environmental, economic, training and occupational policies; the features and functioning of continuous training and skills certification systems; the social partners’ contribution to sustainability and workers’ skills development.

The focus on the legal-institutional context should be accompanied by analyses made on individual level concerning professionalization processes and career paths for key professional profiles in the green economy, to be examined



through case studies. Finally, occupational, health and safety issues and the gender dimension should mainstream the investigation of skills development and qualification systems and inform the conceptual framework of each research in this field.

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# Regulating Kazakhstan's Labor Relations under New Socio-economic Conditions

Zaure K. Chulanova<sup>1</sup>

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## Abstract

**Purpose** – The study aims to substantiate the approaches and principles of forming and regulation a model of social and labor relations of Kazakhstan adequate to the modern conditions of economic development.

**Design/methodology/approach** - The creation of an effective model of social and labor relations should proceed from the multifaceted nature of their manifestation.

**Findings** – The article describes the current Kazakhstan's model of labor relations and its basic parameters; determines the external and internal factors, specifically, the influence of the new labor law on its further development in the direction of democratization and the establishment of social partnership as a regulatory institution in the labor relations field.

**Research limitations/implications** - Proposals to improve organizational and legal support for the long-term model of social and labor relations in the Republic of Kazakhstan.

**Originality/value** - Result is the model of the system of social and labor relations proposed by the author, which allows us to cover the multifaceted nature of this phenomenon, to unite the influence of the external environment and the internal complex of their mutual relations and interdependencies. The study is carried out as part of a project funded by the Science Committee of Kazakhstan.

**Paper type** – Research article.

**Keywords:** *Social and Labor Relations, Kazakhstan, Model, Labor Market Institutions, Social Partners.*

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<sup>1</sup> Chief Researcher at the Institute of Economics of the Ministry of Education and Science of Kazakhstan and Professor at Al-Farabi Kazakh National University, Almaty, Kazakhstan. E-mail address: zzaure555@gmail.com.

## 1. Introduction

The modern evolution of the world economy along the path of innovative development is accompanied by the modernization of the economy and the social sphere. The ongoing processes go beyond the existing models of social and labor relations. Accordingly, they set new tasks for the scientific community with the necessity to comprehend a whole range of theoretical and practical directions of development (institutional, legal, organizational, psychological) that are of an interdisciplinary character.

In post-Soviet countries, the development of the social and labor sphere of an innovative type is currently being carried out fragmentarily. The peculiarity and complexity is that many mechanisms of the organizational and economic model were formed on the basis of specific features of the country's development and did not always have an economic justification. The accumulated discrepancy between the existing labor relations, institutions and mechanisms of their interaction versus the realities of today hinders sustainable socioeconomic development on an innovative basis. It is obvious that the transformation of social and labor relations, adequate to modern challenges, requires the development of mechanisms for their adaptation to these transformations and a radical change in the system of values that has developed in the social and labor sphere.

Increasing the social orientation of the economy requires the modernization of social and labor relations with the development of an effective institutional mechanism for their regulation. This is due to the fact that, firstly, economic growth, modernization of the economy and transition to an innovative type of development are impossible without the social stability of the society, determined by the consensus of the subjects of social and labor relations. Secondly, the ineffective institutional regulation of social and labor relations, the lag in adjusting existing institutions (in terms of contracting terms, salary formation, labor protection, social partnership, etc.) reduce the level and quality of people's livelihoods, limit the development of labor potential and lead to violation of the labor rights of workers. This is especially noticeable in the context of economic crises, when the competitiveness of business, raising the living standard of the population, largely depends on the effectiveness and efficiency of institutional regulation, maintaining the optimal balance of the social and labor sphere.

The purpose of the study is to substantiate the approaches and principles of forming a model of social and labor relations that meets the requirements of the innovative economy.

## 2. Literature Review

In the scientific literature there are various theoretical approaches to determining the essence of social and labor relations, forming their structure and mechanisms of action. Some authors, speaking of social and labor relations, view them as "objectively existing interdependencies and interactions of subjects of these relations in the labor process, aimed at regulating the quality of working life" (Bernheim & Whinston, 2008), thus practically restricting them to the sphere of the labor process. At the same time, a number of authors do not differentiate between the definition of "labor relations" and "social and labor relations" (Kolossova & Melikian, 1996), holding the view that they cover "both social and economic aspects" (Kolesnikov, 2003).

In some publications of recent years, social and labor relations are treated exclusively from the point of view of the social partnership between the employer and employees, not taking into account that the latter arises only at a certain stage in the development of these relations (Guriev, 2001). In our opinion, this approach does not allow us to clearly present the sides of the named relations, their levels and types. As a result, it does not allow us to develop the necessary set of measures to ensure the resolution of existing contradictions and conflicts in this area.

In the studies of Western scholars, the term social and labor relations, also defined as production relations, refers to a system in which employers, employees and their representatives and, directly or indirectly, the government, interact to establish basic rules for managing relationships in the labor process. As noted by Trebilcock, the scope of their action determined by the industrial revolution, the growth of which led to the emergence of trade unions as representatives of workers and the development of collective labor relations (2011). Accordingly, the system of socio-labor, or production, relations reflects the interaction between their main subjects. At the same time, the system of labor relations includes both social values (for example, freedom of association, the meaning of group solidarity, the search for maximum profit), and methods (for example, methods of negotiating, organizing work, consulting and resolving disputes). On the one hand, the system of social and labor relations is part of the system of social relations and is under its influence. On the other hand, socio-labor relations are characterized in some sense by independence and the more complex a society is, the more it is manifested.

Kamenetsky regards social and labor relations as a category much broader and more voluminous than understood under labor relations. In his opinion, they include relations regarding: the formation of an employee; functioning of the labor market; creation and functioning of the appropriate material and

technical base for the performance of labor activity; relations regarding the primary and subsequent distribution of the created product and the final consumption of the product created in society (Kamenetsky, 2001).

From the point of view of the evolutionary approach in the social and labor sphere, public interests arose as a result of the interaction of a whole range of factors, including the historical, economic and political conditions of a particular country. As a product of the coexistence of these interests, then mechanisms for their realization and interaction with each other arise (Radaev, 2004). At the same time, socio-cultural factors, that is, traditions, labor values, in which the basic principles of people's vital activity in the social and labor sphere are manifested, further form the criteria, rules of behavior, stereotypes of labor morality and the motivational mechanism, play an important role. Legislation that regulates social and labor relations introduces the "rules of the game" already established in the previous stages, or the rules about which a certain consensus has been reached between labor market actors.

Since the end of the 20th century, the approaches to studying the problem have been substantially updated in the economic theory of foreign research. Initially, this was due to the reorientation of the microeconomic "standard" from bilateral relations in the Walras market, as a fundamental category of economic analysis, to the Theory of contracts and the Economics of Agreements (Brangier & Lancry, 2001). These two approaches to social and labor relations, despite a departure from the classical theory, are based nevertheless on the analysis of labor relations at the micro level and contribute to a better understanding of the relationship between the employer and employees. According to these theories, the formation of these relations implies the creation of mutually acceptable and mutually beneficial working conditions that satisfy all participants in this relationship (Bessi & Favereau, 2003).

In the classical theory as the main elements of the model of social and labor relations are defined: the state, employers, employees (or associations of both). A. Smith wrote about the contractual nature of the relationship between workers and employers. The success of this regulatory mechanism lies in the voluntary nature and balance of interests of the parties to social and labor relations. Actually, social and labor relations are considered through a set of regulatory rules and interrelations between the main actors regarding employment guarantees issues, hiring, dismissal, working conditions, income distribution, etc. (Nehoda, 2009). That is, the essential characteristic of social and labor relations already predetermines the formation of stable norms, rules, procedures, lines of behavior and interaction of the main subjects, expressed in their institutionalization.



Thus, it can be said that the type of social structure depends on the nature of people's activity at this or that stage of the social and economic development of society, and on how the relations between people are formed in the process of production of material goods and services, and also their consumption. From this we conclude that social and labor relations largely determine the type of social systems and social development and affect the public consciousness, while being the product of a long evolution.

### 3. Methodology

Speaking about approaches to the formation of social and labor relations, the author shares the opinion of the American professor F. Herzberg that the field of studying social and labor relations, less than any other field of research, contains a universal model that would be suitable for all situations and would provide a reliable explanation and reliable solution. This is evident from an analysis showing the dependence of any model on various factors, in particular, market economy, globalization, etc. (Herzberg, 1968).

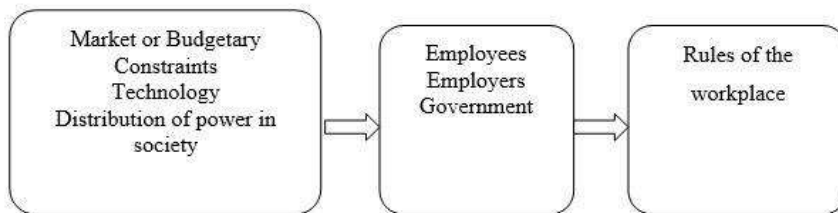
As a system, social and labor relations have two forms of existence. The first is the *real* social and labor relations, functioning at objective and subjective levels. The second - the *normative* social and labor legal relations, reflecting the institutional and legislative norms (Umpleby & Medvedeva, 2010). Ideally, both forms - real and normative - should reflect the same model of social and labor relations, have one value system and be built on the same principles. In this case, it is considered effective. However, as practice shows, often the actual model does not fully comply with the normative, but it is the most acceptable for the conditions of the given country in this period of development. In this case, there is a contradiction between what we want to see social and labor relations (normative), and what they really are (real). This can be seen in the example of the Kazakhstan model of social and labor relations (Table 1).

Table 1. Characteristics of models of social and labor relations of Kazakhstan at the real and normative levels

Evaluation Criteria	Existing Model (Real)	Legislative Model (Normative)
State labor market policy	Active	Active
Social and labor relations management	Domination-Subordination	Social Partnership
Relationship between employers and workers	Inequality	Equality
Predominance of interests in social and labor relations	Public interests	Balance of interests of social groups

The model of social and labor relations of Kazakhstan to become real, must take into account the originality and new trends in the evolution of the labor market. The main directions of formation and development prospects of the Kazakhstan labor market determined by the employment policy, the creation of legislative, socio-economic and organizational mechanisms of its regulation. In the model of social and labor relations developed by Harvard University Professor G. Dunlop, the key participants - the workers (their trade unions representatives), the enterprise management (employers) and the state cannot act autonomously or independently. Moreover their relationships are determined by the existing market, the technological environment and the political context (Dunlop, 1958). In this environment participants interact with each other, negotiate, use economic and/or political power in the process of determining labor rules that constitute the output of social and labor relations (Figure 1).

Figure 1. Dunlop’s model of social-labor relations



Dunlop defined the so-called "web of rules", including the elementary components that govern social and labor relations, highlighting the institutions and norms on the basis of which social and labor relations are being implemented and which regulate the results of these relations: basic norms

(wages and tariff rates, duration of working hours, rules on labor protection, etc.); procedural institutions (governmental regulators, conciliation and arbitration bodies, etc.). At the same time, the parties involved in the system of labor relations, depending on existing traditions and institutions, can react differently in the same circumstances. It is logical that in such a situation, both the approaches and the process of the formation of one or another model are changing.

#### **4. Results and Discussion**

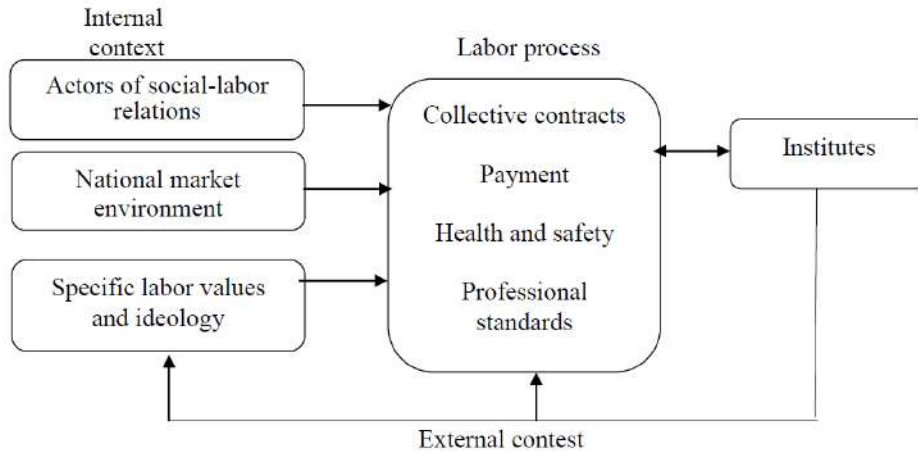
##### ***4.1. New Model of Social and Labor Relations***

The dynamics of world economic development show that, in the context of globalization, the social system as a result of its openness becomes especially susceptible to external influences and internal fluctuations, which are predetermined by a wide range of various conditions and factors, classified according to different criteria: External (political, economic, social); Internal (firm strategy, career growth); Specific (training, skills development). The requirements of regional integration and the accelerated pace of introduction of new technologies require greater flexibility on the part of national institutions.

With such a comprehensive approach, human values play an increasingly important role. The reduction in the share of industrial labor and the corresponding "unified" worker, the growth of the requirement for education and vocational training of employees; the increase in the elements of creativity in the labor process determine the need for a new motivation for labor activity and the socialization of labor relations. The qualitative characteristics of the employed become the main focus of regulating social and labor relations. Formation of a higher quality workforce implies strengthening the role of the state in this process (the education and healthcare system, although their improvement occurs with the active participation of other labor market participants).

In our opinion, the use of a comprehensive holistic approach to the study of social and labor relations makes it possible to cover the multifaceted nature of this phenomenon, to unite the influence of the external environment and the internal complex of their interrelationships and interdependencies. Using the model of social and labor relations of Dunlop, supplementing it with external and internal contexts, we built the following model of the system of social and labor relations, which fully reflects the situation in the world of work (Figure 2).

Figure 2. Model of the social and labor relations system



Expressing this interdependence algebraically, we presented the social-labor relations as a derivative of the interaction of the constituent elements, as follow:

$$R = f(A, Int, Ex, Id, I), \tag{1}$$

where R is principles of the formation of the system of social and labor relations; A is actors (participants); Int is internal market environment; Ex is external environment; Id is ideology; I is institutions.

It is obvious that in mathematical design the dependence of the principles of model formation on its constituent elements is clearly visible. It also becomes clear that the content of the system cannot outstrip the development of its elements and principles. In the conditions of the natural formation of the system of social and labor relations, as was the case in economically developed countries, such a contradiction, as a rule, does not occur.

It should be noted that in the post-Soviet countries, including Kazakhstan, economic reforms and now its transformation are initiated from above. There is a situation when the legislature sets objectives and principles of construction, which "pulls" the subjects of social and labor relations. However, as originally established work values differ from the values on which the market system of social and labor relations is based, the institutions are changing faster than the perception and understanding thereof.

According to the study results, for the years of economic reforms, according to phased development of the labor market model, social and labor relations have also undergone a significant transformation. At the initial stage of formation of the labor market (in mass redundancies resulting from closure of enterprises

and spontaneous reallocation of labor force between sectors of the economy and spheres of activity) in the conditions of rising unemployment, the Kazakhstan model of the labor market had features of European (liberal) model, with a predominance of passive measures in employment policy.

In subsequent years, with the stabilization of the economy, the focus has shifted to the use of elements of the Swedish model - along with measures to combat unemployment and poverty, work is activated on improving the legal framework for transforming the labor market. As a result of this symbiosis a new social policy appeared, the criterion of which was poverty reduction, in conjunction with the operation of a full-fledged labor market and with the strategic goal of improving people's welfare.

With further social and economic development, the process of the labor market adaptation to new realities continues, in particular organizational innovation in employment, especially in the field of social and labor relations. Kazakhstan, as a country on the path of innovative development, modernizes its economy and its social sphere.

The current processes have an impact on social and labor relations in terms of improving them relative to society's needs, with the aim to improve the living standards of the entire society.

Naturally, all of this affects the content and nature of work. The individual elements of the Japanese model can be traced and are represented by the onset of a trend in which large companies take up the costs of training and professional development of the employees, with the emergence of elements of the lifetime employment system in some large enterprises. There is a growing tendency for labor force mobility, with access of a skilled labor force to foreign labor markets, which is characteristic of the American model of social and employment partnerships.

The results of the criteria selected in the course of the study for the identification of models of social and labor relations in developed countries (including the state policy in the labor market, system control type, social equality or inequality of the participants, the dominance of individual, group or public interests) (Chulanova, 2016), allow us to define the modern Kazakh national model as basically collective and paternalistic, with a predominance of the public interest over the individual's interest, which is not fully consistent with the trends emerging in developed countries.

At the same time, in our opinion, the originality of the Kazakh model is that it retains some elements of the socialist past, whilst embodying elements of the models of developed countries that certainly were the impetus for the improvement of labor market model and therefore, the model of social and labor relations. Thus, the results of our analysis, coupled with the diversity of modern elements that have grown in society, allow us to conclude that a new

*Eurasian combined model of social and labor relations* is being formed in Kazakhstan. However, some of its components, such as pay, occupational safety and professional standards, still require modernization.

The formation of Kazakhstan's labor market as an integral part of the market system is largely due to the characteristics and pace of economic reform. Kazakhstan's labor market is constantly evolving under the influence of political, economic and social factors. Transformations in the economy of Kazakhstan since 1991 accompanied by the restructuring of employment, changes in the distribution of employment by ownership, by type of economic activity, employment status. The formation of the modern labor market took place in the conditions of denationalization and privatization of enterprises, the emergence of business owners and owners of the workforce, radical changes in social and labor relations in accordance with the creation of the regulatory framework for their regulation. Today, the national labor market in its development is still far behind the requirements of the times; in the field of employment and social protection of unemployed citizens there are many unresolved problems.

#### ***4.2. Assessment of Labor Market Parameters***

The state regulatory policy on social and labor relations is determined by the parameters of the national labor market, which is the complex of relationships of its members concerning terms of employment, use, exchange and remuneration of the labor force. That is, the labor market is a reflection of the socio-economic processes taking place in the country.

In Kazakhstan in recent decades, the parameters of the labor market formed under the direct influence of domestic economic development and globalization of the economy. The analysis shows that in the whole country, its main indicators have a positive trend. Sustained economic growth in the 2000s and related structural changes in the economy accompanied by an increase in the capacity of the national labor market and a change in its content (Table 2).

Table 2. Structure of the economically active population participating in social and labor relations in the labor market of the Republic of Kazakhstan in 2001-2018

Indicators	Population aged 15 years and over				
	2001	2005	2010	2015	2018
Labor force (Economically active population, thousand people)	7479.1	7901.7	8610.7	9041.3	9074.9
Employed population, thousand people	6698.8	7261.0	8114.2	8570.6	8623.8
Wage workers, thousand people	3863.3	4640.5	5409.4	5949.7	6294.9
Self-employed workers, thousand people	2835.5	2620.4	2704.8	2621.0	2328.9
Unemployed population, thousand people	780.3	640.7	496.5	470.7	451.1
Unemployment rate, %	10.4	8.1	5.8	5.2	5.0
The level of youth unemployment (aged 15-28 years), %	16.6	11.9	6.6	5.5	4.3

However, despite the positive dynamics of indicators of the labor market, strengthening its capacity are the risks of reducing the activity of certain groups of the population. There are number of problems in production that affect the effective use of labor resources and modernization of social and labor relations. The synthesis of these risk characteristics of the labor market has allowed conclude the following about the realities of the Kazakhstan labor market. This deformed structure of employment with a high proportion of employment in energy industries; imbalance in, on the one hand, the excess frames are out of date professions, and with another – the lack of qualified personnel needed to work with modern technology; high proportion of outdated, inefficient workplaces with the low labor productivity; lack of relationship between labor efficiency and wages; low price of labor (behind the cost of living), imperfection of significant part of labor standards, etc. Evaluation of economically active population by level of education showed the following: of the total number of the employed population of 37,8% have higher and incomplete higher education, 35,5% - secondary professional

(special), the share of secondary accounts for 19,8%, i.e. a fifth of the labor force - unskilled workers.

The analysis of the situation in the Kazakhstan labor market shows that there is still the tendency for training not to correspond to the needs of the developing economy. In particular, according to a survey conducted by the Institute of Economics of the Ministry of Education and Science of the Republic of Kazakhstan (RoK), 64% of respondents perform jobs which do not correspond to their education. That is, we are talking about existing and rising imbalances between demand and the labor supply. Modernization to date and renewal of basic capital has already revealed the lack of highly skilled professionals in a number of industries, particularly in mechanical engineering, metal processing etc., which the national labor market still cannot provide. In this connection, foreign oil companies operating in Kazakhstan and opening new, western-style facilities, with advanced production technology, widely employ their own expat experts due to the lack of suitably qualified Kazakh personnel.

The formation of the labor market occurs in conditions of improving the quality characteristics of labor resources. Over the years of independence, the number of specialists educated in the best world universities has significantly increased; there has been an increase in the percentage of people who have passed through higher levels of the educational system (master's, doctoral, post-graduate programs). However, there is a bias in the training of specialists with higher education in the field of economics and law and there is a lack of engineering specialists.

Based on the fact that the balance between supply and demand of the relevant labor force is one of the most significant components of an innovative economy, we believe that the current situation indicates the weak work of currently operating labor institutions.

One of the unusual subjects of the labor market is represented by the self-employed. The scope of the employment of this category of citizens has a great diversity and low transparency. These people do not work under a contract, are not registered as entrepreneurs and at the same time are not unemployed. Statistics show that the proportion of self-employed is relatively high in the country, accounting for about a third of the population. This form of employment, so-called "self-employment", plays an essential role in social and economic life, especially in the sphere of small business. It is this informal employment sector, giving a livelihood to millions of people, which absorbs "surplus" labor in conditions of scarcity of resources for the development of the economic and social spheres and the lack of a sufficient number of "formal jobs". It developed in the country between 1990 and 2000, when there were jobs lost in all categories (scientific staff, workers of all specialties, medical



personnel, teachers, agricultural workers, etc.) and people passed into the category of self-employed.

Analysis of the core meaning of the concept of "self-employed" has shown that in the CIS countries, including Kazakhstan, issues of border definition of the concepts of social differentiation components are methodologically poorly designed. There is still no clear definition of the categories: self-employment, entrepreneurship, informal employment.

The definition of "self-employed", given in the Republic of Kazakhstan Law "On Employment", is essentially identical to the international standard for categorizing employees in countries with developed market system, in which the resulting income is directly dependent on the production of goods and services, at the same time products produced for self-consumption are considered to be a part of the income. When identifying the concept of "self-employed" in terms of Western practice, it is difficult to find out the specific numbers, composition and structure in the country, the flow of migrants, replenishing their ranks, as well as social needs and orientation of certain social groups that form the phenomenon of "self-employed". All this has its negative side. Thus, in particular, there are many cases when the unemployed are counted as the self-employed, which, firstly, significantly distorts the statistics on the real unemployment rate and on hidden unemployment. Secondly, it is not possible to determine the true number of Kazakh households involved in the actual process of trade. Finally, the self-employed, often being the subject of informal (shadow) employment, fall out of the system of state regulation of social and labor relations, as they are not subject to the social obligations of the state. This applies to a large extent to the productive self-employed. They are not covered by labor contracts, which makes them vulnerable in the labor market, whilst being totally dependent on the employer, not having social security, pension and insurance benefits. Nonproductive self-employment leads to a loss of skills of social interaction in the process of labor and marginalization.

The methodology used for statistical identification of 2.7 million self-employed people is far from world experience, especially used in the EU and the USA. It should be noted that with a scientifically based methodology for calculating the structure of employed and self-employed people, official unemployment data can be significantly adjusted in the direction of negative growth.

Thus, it would be right to apply here the thesis on the low efficiency of use of labor resources, which speaks for the lack of organization of the labor market and the absence of understanding of social and labor relations amongst certain categories of workers.

The development of innovative technologies is accompanied by the emergence of new professions requiring entry level skills of sufficiently high qualification

for quick learning of these new skills. The qualification skills undergoing the biggest changes are those in engineering professions, management and administration, and services. In Kazakhstan, for example, the tendency has been formed for there to be a certain deficiency of highly qualified managers and executives of the new management style. This can be considered as a new and growing challenge in the market of the employers. This is also confirmed by the Global competitiveness report for 2018-2019 (World Economic Forum). In labor market efficiency rating Kazakhstan occupies the 30th place out of 140 countries. However, the low positions on such indicators as Reliance on professional management – 105th and the country's capacity to retain talent – 80<sup>th</sup>, Cooperation in labor-employer relations – 67<sup>th</sup>, indicate a lack of effectiveness of the management of social and labor relations to ensure high standard of living, in which every worker is interested. In this respect particularly important is the issue of training future innovators in business, as local entrepreneurs will produce competitive products not only for the domestic market but also to come up with the products which are in demand abroad. It should be noted that the situation inherent in the Kazakh market, is that despite a certain shortage of skilled workers, a strong demand for a highly educated skilled labor force has not yet formed (Chulanova & al., 2019).

Summarizing the risk characteristics of the labor market, we can draw the following conclusion about the realities of the Kazakhstan market. Imbalance when, on the one hand, there is an excess of workers in professions with low demand today, and on the other hand – there is a lack of qualified personnel needed to provide and support modern technology. This is exacerbated by the condition of the large number of jobs, not adequately adapted to the significant issues of qualified personnel required to operate in an innovative economy.

In the context of the above, the provision of balanced supply and demand in the labor market needs effective state regulation, which is capable of bringing the structure of labor supply to the market to a state capable of meeting the demand.

### **4.3. External and Internal Factors in Social and Labor Relations Development**

Integrating into the global economic system, Kazakhstan is becoming increasingly dependent on the trends in world processes.

The principles for the development and implementation of the state policy management of social and labor relations are shaped under both external and internal factors. As external factors there are the recommendations and conventions of the UN and ILO, agreements concluded as part of the Eurasian Economic Union (EAEC) and the WTO, governing the development

of the labor market and labor relations. Kazakhstan, as a member of many international organizations, has joined various international agreements related to the regulation of social and labor relations. Accordingly, the ongoing reform of the labor legislation is based on the principles of international labor law. In particular, Kazakhstan's membership in the EAEC brings its own features to the process of regulation of social and labor relations in the framework of the common labor market. In a similar process, the European Union legally, through the gradual merger of national labor markets, has formed a major international labor market, defined as a supranational structure, which permanently serves buyers and sellers of foreign labor.

The situation currently forming in the labor market of EAEC is well ahead of the development of institutions to manage the world of work. The problem of the common labor market in the EAEC as a regional grouping is that it has not formed to date all the necessary mechanisms to confront a variety of different-scaled internal and external challenges facing it.

It is evident that the functioning of national labor markets of Member States will inevitably be affected by both internal and external factors. Especially because the national labor markets have a number of similar internal problems, in particular: the imbalance in the labor market, inefficient employment, unemployment, etc. and they are all under the influence of the economic crisis and the deepened recession in the real sector of the economy. It is clear that the emerging labor market by itself cannot solve the issues of liberalization of labor and the democratization of social and labor relations throughout the territory of the economic space. Entering the international labor market must be accompanied by consistency and synchronicity of action for social inclusion, in particular, the implementation of measures for the harmonization of legislation in the sphere of labor and social relations and the achievement of international standards in the field of social and labor conditions for its citizens.

Kazakhstan's participation in the EAEC, and WTO accession implies openness of the labor market. In the long term, on the one hand, it opens up opportunities for access to the latest technology and exchange of experience in various specializations, which will help improve the skills of the national workforce but on the other hand it inevitably increases competition from foreign specialists with higher qualifications for the newly created job positions. This dictates the need for businesses to adapt measures to the new conditions- the development of retraining and staff development programs.

In general, all of the above assumes changes in the content, forms and working conditions with all their components, representing a total system of social and labor relations which is the key in the innovation economy.

The internal factors include labor law, based on the Constitution of the Republic of Kazakhstan and comprising the Labor Code, as well as all legal acts of the state, aimed at achieving a balance of interests of the participants of social and labor relations, the implementation of their constitutional rights, social stability and public consent. In our opinion, the emerging mechanism should involve less government intervention in the event of negative phenomena, as a mechanism to prevent them. Accordingly, its main task is to develop preventive measures, with a clear definition of the principles of their functioning.

Changed conditions of economic development, against the backdrop of the active involvement of Kazakhstan in globalization and integration processes and the need to build a modern democratic model actualized the need to modernize the institutional framework for the formation of civilized social and labor relations.

There should be noted another positive point. Statutory transition to international standards for measuring labor market indicators, will bring national statistics in line with international standards. This concerns in particular the definition of the number of self-employed. More accurate identification of self-employed will allow them to be assisted either in the official registration of their activities or by providing targeted support.

#### **4.4. Institutional Frameworks Changes**

Analysis of the new Labor Code, introduced in Kazakhstan in 2016 gives grounds to conclude that it is oriented to the formation of a fundamentally new model for regulating labor relations with the creation of the necessary legal conditions for the social interaction of employers and employees in a package of measures to create an innovative economy. This model is based on the support of entrepreneurship, taking into account the interests of workers, the social responsibility of the state, employers and workers. Our analysis and systematization of the changes introduced show that the Labor Code, defining the boundaries of state intervention, the minimum standards of labor relations and basic guarantees for employees, is aimed at liberalizing labor relations. At the same time, at first glance, there is an impression that was repeatedly discussed during the discussion of the new Labor Code in the media, that with the minimization of the rights of the employee, the powers of the employer have been significantly expanded. Indeed, some simplification of the procedures for hiring, personnel transfer, dismissal, etc., on the one hand, facilitate the employer's opportunities. However, on the other hand, the document provides for the possibility to expand the fixed basic labor guarantees and workers' rights through individual and collective agreements

and negotiations. This means that, according to the new code, the labor relations of employers and employees must be built on the principle of self-regulation, in which collective contractual relations play an important role. The positive aspect of the development of the Labor Code is the use of the elements of the Anglo-Saxon model, regulating methods and standards of social partnership to ensure the rights of both workers and employers (Table 3). Implementing them is promising, because in essence and in content, they fit in with the tasks Kazakhstan is facing, that is of democratization and improvement of legal regulation of labor relations.

**Table 3. Provisions of the Labor Code of the Republic of Kazakhstan, promoting the democratization of social and labor relations**

Thesis	Interpretation
The accounting of opinion of representatives of employees in publishing of the acts of the employer	Within five working days from the date of submission of the draft act of the employer, the employee representatives can express their opinion and take an appropriate decision on it.
Representation of employees	Trade Union bodies together with the elected representatives of the employees represent employees' interests, which can also include workers who are not Union members on the basis of their written application.
The condition of no competition	According to the agreement may enter into a separate agreement on non-competition containing the obligation of the employee to take actions that may prejudice the employer.
Dual training	Agreement on dual training provides training and practice with the possibility of payment for the performed functional duties and the execution of the trainee's labor regulations and safety requirements and labor protection.
Collective agreement	Changes in the content and structure of the collective agreement, in particular, it provides for the necessity of taking into account the views of employee representatives specifying the acts of the employer.
Technical inspector on labor protection	The trade union or general meeting of employees offers candidatures. Based on the decision of the production council for safety and labor protection, the status, rights, duties, control procedures are determined.

In particular, according to one of the innovations, today the effectiveness of the implementation of social and labor relations will largely depend on the activity of trade unions, their ability to defend the interests of workers versus the employer, to take collective action in case of violations, according to the trade union powers defined in the Law "On trade unions", adopted in 2015. The positive of this provision is to strengthen the role of trade unions. This is obvious, based on the fact that the trade unions have long been using the negotiation process, acting as the regulator to address conflict issues of the widest spectrum related to the improvement of social and labor relations between employers and employees.

Moreover, as demonstrated by a case study made by the author, the majority of workers surveyed noted the poor performance of trade unions, two-thirds (64.3%) of the interviewed workers note a slow but growing influence of workers on social and labor relations. 51.2% consider the problem to be due to the personal qualities of the trade union committee representatives and union members- qualities such as passiveness, lack of initiative, poor responsibility, lack of competence and professionalism. The remaining 48.8% believe that the ineffectiveness of the trade union is linked to the factors affecting their activity, such as the dependence of the chairman of the trade union on the employer, his ignoring the suggestions and opinions of trade union members and the lack of support for the actions of the trade union committee (Chulanova, 2017).

Thus, analysis of the updated labor legislation gives us grounds to conclude that it is orientated towards the formation of a fundamentally new model of regulation of labor relations (with the creation of the necessary legal environment for social interaction between employers and workers), in a complex of measures for the establishment of an innovative economy.

## 5. Conclusions

Thus, the study and analysis of the basic principles and approaches to the formation of models of social and labor relations allows us to draw the following conclusions:

The creation of an effective model of social and labor relations should proceed from the multifaceted nature of their manifestation. This means that the theoretical and methodological basis for their formation should be a comprehensive approach to solving the problems of transformation and interaction of social and economic components. Social and labor relations should be studied from the positions of economics, law, sociology, psychology, ethics and organizational theory. At the same time, in practice these aspects cannot be divided. The approach to their study presupposes the unity and interdependence of social and labor processes aimed at implementing an

effective system of social and labor relations determined by the state's social policy and external influence.

Naturally, the state of social and labor relations largely depends on the social and psychological connection between individuals. In this case, it is necessary to emphasize the importance of the psychological aspect of the ongoing modernization. It should be noted that such factors as a new motivation for work, responsibility (not only personal, but also social), a sense of ownership, collectivism and unity have not yet found proper development in the practice of Kazakhstan. Of course, these parameters are necessary to solve the problem of training employees for work activity in the new model.

The low level of wages, the reduction of actual working hours, while maintaining a sufficiently high level of employment and low unemployment contributed to the conservation of inefficient employment and prevented its restructuring. As a result, the spontaneous adaptation of the labor market of Kazakhstan to political and economic transformations preserved the backward proportions of employment and labor relations. They are hardly relevant to the innovation economy.

The basic concept of modern relations between the employer and the employee is the formation of harmonized, trusting, relationship in partnership. Paramount importance in this respect, in our opinion, belongs to the agreement mechanisms, which pre-suppose consultations and, negotiations between social partners and the conclusion of a system of agreements and contracts at various levels of social and labor relations, which are the basis for the functioning of the social partnership. This creates conditions for the democratization of the interaction of workers and employers in the social and labor sector, filling them with new content. It is necessary to form levers and mechanisms for implementing social guarantees and labor remuneration, observance of labor legislation, improvement of conditions and labor protection in the enterprise.

In addition, since social and labor relations are closely intertwined with the problems of vocational education, health care, as well as housing, pension, tax support etc., the modernization of the organizational and legal support of labor relations, in order to be successful, requires parallel changes in related areas of legislation. At the same time, trade unions need to more actively, proactively and professionally ensure the protection of workers' rights, systematically improve the system of trade union control over compliance with labor laws and collective agreements, with the adoption of measures to eliminate identified violations and protect workers' rights and interests.

Summing up the conclusions and proposed recommendations, we consider it necessary to note that the effectiveness of their implementation can be

obtained only in situation of the supremacy and strict observance of all provisions of the adopted state laws and regulations.

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# The European Employment Strategy as a Tool Promoting Ukraine's Integration

Olena Rym and Pylyp Pylypenko <sup>1</sup>

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## Abstract

**Purpose** – The article aims to study and compare the experience of the European Union and Ukraine in relation to measures promoting employment.

**Design/methodology/approach** – Both a quantitative and qualitative approach has been employed.

**Findings** – After illustrating the core directions of its employment policies, the Ukrainian government failed to successfully implement them.

**Research limitations/implications** – The shortcomings affecting employment initiatives in Ukraine should be eliminated, while higher protection should be implemented for people at work.

**Originality/value** – The paper focuses on the problems of employment provision, which are common to Ukraine and the EU.

**Paper type** – Qualitative and analytical paper.

**Keywords** – *the European Union; the Europe 2020 strategy; employment; labour productivity; Ukraine's employment policy.*

## 1. Introduction

Social stability cannot be secured if the problem of employment is not adequately addressed. Therefore, ensuring the full employment of the economically active population constitutes one of the key goals for developed

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<sup>1</sup> Olena Rym (corresponding author) is Associate Professor of Legal Studies at the Faculty of Law of Ivan Franko National University of Lviv (Ukraine). Email address: olena.rym@lnu.edu.ua. Pylyp Pylypenko is Professor of Social Law at the Faculty of Law of Ivan Franko National University of Lviv (Ukraine). Email address: pylyp.pylypenko@lnu.edu.ua. The authors would like to thank the two anonymous referees for their comments, which enabled them to improve the quality of our paper. Any errors in this article are the authors' sole responsibility.

countries at the time of implementing social and economic policies. One might note that the recent social and political changes taking place in the labour market are unprecedented, posing new challenges as far as employment is concerned. Among others, reference can be made to labour shortages and the concurrent struggle to find work of those aged 45 and older. What is also worrying is that technology will destroy many jobs, as human workers will be replaced by automated processes.

The rapid diffusion of atypical employment in different fields is also a major cause for concern, as this state of affairs calls into question the provision of stable work. The above requires being pro-active and promoting efficient strategies of social and economic development. This is so because the pace of technological advancement and globalization is conditioning social life in a number of ways. With a view of governing global changes and devising opportunities for responding to the challenges in the field of employment and social protection, the European Union has developed a large-scale employment strategy aimed at maximizing employment growth while guaranteeing gender equality. Currently, promoting a 'smart, sustainable and inclusive economy', hence raising employment levels in the European Union is determined by the Europe 2020 strategy (European Commission, 2010).

The European development vector put forward by Ukraine requires a detailed analysis of the employment-related issues the European Union is now faced with, as well as an investigation of the ways to overcome them. There is a need for economic reform to adapt both European and national economies to current changes, thus coordination between Ukrainian and European Union employment policies is necessary. The determination and implementation of Ukrainian employment policies to be modelled upon EU priorities and positive experience are now imperative for future success. The way things stand now, Ukrainian labour legislation fails to keep up with changes in social life and cannot ensure proper regulation, especially when a deviation takes place from the standard employment model based on traditional open-ended contracts. In this sense, ensuring stable employment and regular working hours is becoming increasingly difficult. Labour flexibility and new working arrangements are some of the reasons behind the rise of new challenges for lawmakers and new risks for employees. In addition, the wide implementation of technological novelties increases tension regarding task fulfilment and work-related stress, accelerating the process of occupational burnout. Not to mention that these new ways of working make the distinction between private and professional life increasingly blurring. Under these conditions, governments are faced with the need to prevent a reduction in the protection and the income of those in employment. In this context, it is thus important to highlight the importance of cooperation between EU Member States and the EU when devising

measures ensuring full employment. Taking this into account, Ukraine should primarily follow the example of the European Union. Besides considering EU legal regulation, the analysis should also concern employment dynamics, in order to be ready to tackle different challenges as they arise.

Consequently, investigating the legal provisions favouring employment put forward by the EU and Ukraine from a comparative perspective seems only fitting. A significant body of national and international research (Amelicheva L.P. (2017), Vyshnovetska S.V. (2017), Matsko M.A. (2015), Pylypenko P.D. (2014); Buub N. (2001), Van Rie T. (2012), Velluti S. (2004), Watt A. (2004), Milner S. (2004), Regent S. (2003), Szyszczyk E. (2001) has been carried out on this topic. However, the issue has come to the fore again due to the recent developments in labour markets. Ukraine's efforts to become a EU Member should be accompanied by a pro-active approach. The admission process should also involve an examination of the mechanisms of legal protection which are applied EU-wide. This analysis will start by outlining the EU employment strategy, from the beginning to its current orientation.

## **2. Discussion**

### ***2.1. The Development of the European Employment Strategy***

In the early 1990s, the economic, monetary and social crisis affecting the European Union led the problem of employment to be dealt with at supranational level. Despite growing European integration, no answers were given to tackle rising joblessness, thus large-scale, long-term unemployment loomed large among EU citizens. Gaps in national employment policies were one of the reasons of this state of affairs. National labour laws were ill-prepared to deal with the new challenges brought about by globalisation and low-cost labour from developing countries. The worsening of the crisis made clear that employment-related issues could be overcome only by enhancing policy coordination at EU level.

Discussions about the mechanisms for tackling unemployment, innovative strategies and more coherent approaches to the issue led to adding a specific chapter on employment policy to the 1997 Treaty of Amsterdam (European Union: Council of the European Union, 1997). Since then, ensuring high levels of employment has been considered one of the EU's main goals.

Moreover, EU Members' commitment to setting a range of common objectives and tasks in the context of employment policy constituted the basis for the European Employment Strategy, which was announced at the Luxembourg Summit in November 1997, some time before the entry into force of the Treaty of Amsterdam (1999). Creating new and better jobs in the

EU was the main goal of this strategy. Furthermore, achieving the respective objectives was to be promoted through the 'single stream' principle, according to which the effect of all other EU policies on employment had to be taken into account in their development. The 'open coordination method' was also devised for the implementation of the European Employment Strategy: rather than mandatory resolutions, voluntary cooperation and 'soft resolutions' were implemented. In other words, instead of harmonizing national institutions of labour markets, the European Employment Strategy presupposed the process of 'soft' coordination of employment policy between Member States (Van Rie and Marx, 2012, p. 335). And the goal of the EU's intervention into this domain was not the intention to exert pressure on Member States via introduction of regulatory boundaries, but the striving to increase the importance of the respective values via organization of Member States towards achievement of common policy goals (Regent, 2003).

Indeed, the open coordination method ensured the 'soft' convergence of EU and national mechanisms, increased the effectiveness of national employment policies and harmonised labour market regulation. Thanks to this method, best practices were disseminated, helping Member States to gradually develop their own. The absence of a legal duty on Member States to enforce EC recommendations also played a part. Yet disregarding the proposals made by EU institutions could have consequences in political terms. As Regent states, political sanctions constitute a highly important form of political or moral pressure, since they can possibly create considerable difficulties for the respective national governments (Regent, 2003). Absence of legal sanctions in this case is assessed positively by Velluti. She argues that it contributes to a certain level of regulation and cooperation between the entities involved. She goes on to say that political sanctions, unlike legal ones, are more than symbolic and effective (Velluti, 2004).

The European Economic and Social Renewal Agenda – commonly known as the Lisbon Strategy – was approved during the 2000 European Council. This document specified that ensuring full employment was one of key goals of the EU's economic and social policy. In particular, the aim was to turn the European Union into the most competitive economy in the world, through knowledge dissemination and sustainable economic growth, along with the creation of new and better jobs promoting social cohesion.

At the same time, the implementation of the Lisbon Strategy was impeded by the lack of the necessary liability for its enforcement both at the level of European institutions, and the EU Member States. Due to this, in 2005 the Strategy was updated. Economic growth and employment became the priorities within the new goals the strategy was now meant to achieve. It also presupposed the introduction of some monitoring mechanisms of the activities

in the field of employment by the Member States, related to their commitments under the Lisbon Strategy, and liability for non-fulfillment was made stricter. Rather than supplying out-of-work benefits, the aim of the Lisbon Strategy was to provide active support to the unemployed while looking for a job, imposing sanctions against those jobseekers who refused a position. Consequently, the priority of the European Employment Strategy was not just reducing (registered) unemployment, but also increasing the levels of employment in general (Watt, 2004). Regrettably, the Lisbon Strategy did not achieve the declared goals. Moreover, the European policy once again failed to protect the economy against external shocks and blocked it for some time in its low-growth trajectory (Watt, 2004). The financial crisis and the economic slump required new and more efficient ways to promote stable employment. This quest resulted in the development of the new economic strategy: *'Europe 2020: A Strategy for Smart, Sustainable and Inclusive Growth'*, adopted in March 2010. In the context of this strategy, three main pillars were devised to deal with the economic hardship resulting from global instability, namely:

1. Smart growth: development of the economy based on knowledge and innovations.
2. Sustainable growth: support of the model of the economy based on effective use of resources that is environmentally friendly and competitive.
3. Inclusive growth: support of the variant of economic development characterized by high rate of employment and ensured social and territorial unity (European Commission, 2010).

In its Europe 2020 Strategy, the European Union reasserted the need to comply with the legal principles of the European Social Model for the sake of creating better jobs. The European Social Model is considered to be unique, for it aims at fulfilling both economic and social objectives. These objectives should be achieved in the following way: a) 75% of people aged 20-64 should be employed b) the percentage of children who do not finish their studies shall not exceed 10% c) at least 40% of those aged 30-34 should complete their third-level studies c) the number of persons threatened by poverty or social detachment shall be reduced by 20 million people.

The European employment and social innovation program aiming to achieve high levels of quality and stability of employment as a guarantee of adequate and decent social protection, overcoming social rejection and poverty and improving working conditions, constitutes a major component of the Europe 2020 strategy. This program is a real tool for achieving the objectives referred to above and carrying out the tasks in the field of employment (The European Parliament and The Council, 2013).

The European Union has made clear that the need to raise employment rates is based on the recognition of employment as a European value ensuring not only material welfare but also social accord. Nevertheless, doubts have been cast recently as to whether the EU will manage to ensure the earlier declared course towards inclusive employment growth against the background of a long-term, financial and economic crisis. Increased unemployment levels, the spread of unconventional work arrangements, lower social costs, wage freezing or reduction in the public sector, simplified dismissal procedures, shrinking unemployment benefits exacerbate social tension, affecting job motivation. However, the activities of the EU bodies and the employment-related documents they implement confirm that the EU does not intend to deviate from its ambitious goals, either as to employment, or its social model in general, though taking due account of budget restrictions. In particular, the focus is on the need for ensuring progress in labour market convergence and monitoring the welfare situation to prevent the lagging behind of the most vulnerable members of society (Ukraine-EU Civil Society Platform, 2016).

## **2.2. Employment Policies in the European Union: Current Directions**

The European Union is facing new challenges: the rise and diffusion of new ways of working (e.g. zero-hours labour contracts and platform work), population ageing, and new migration patterns. This state of affairs urges national social security systems to increase worker protection. The poor effectiveness of job-creation measures via market deregulation, which were based on the provision of social welfare for employees, along with the increased mobility of people from new EU Member States, prompts the European Union to introduce measures aimed at tackling so-called 'social tourism'. In turn, this calls for a review of the way employment relationships are regulated, taking into account the fast-paced changes of European labour markets. As things stand now, the employment policies devised and implemented considering a traditional conception of labour market prove unsuccessful. The approval of the Lisbon Treaty and the subsequent changes made to employment regulation might be a starting point to positively impact on EU labour markets. An example of this is the development and introduction of the European Pillar of Social Rights, which reasserts the growing importance of ensuring and exercising labour rights at the EU level. The document was approved on November 17, 2017 at the Social Summit for Fair Jobs and Growth, held in Gothenburg (Sweden) for the sake of improving the daily life of all Europeans. The European Pillar of Social Rights includes 20 principles and rights regarded by EU leaders as necessary for the fair and effective functioning of labour markets and social provision systems in 21st-

century Europe. Since the approval of the 2000 Charter of Fundamental Rights of the European Union, this is the first document laying down social and labour rights at supranational level. It is divided into three parts: equal opportunities and access to the labour market; fair conditions of labour; social protection and inclusiveness. The Charter contains 20 key principles ensuring new and more effective rights, among others: life-long learning; gender equality and equal opportunities in the labour market; active employment support; safe and adjusted employment; guaranteed salary, information on employment terms and protection in case of dismissal; effective social dialogue and employee engagement; achievement of the optimal balance between work time and private life; healthy, safe and well-adjusted working atmosphere (European Commission, 2017). Although most initiatives concerning the European Pillar of Social Rights are to be implemented by EU Member States, the social partners and civil society, EU institutions – especially the European Commission – have devised some legislative initiatives aimed at improving employment and life in Europe.

By way of example, the European Commission developed and presented proposals for the improvement of the conditions of work of parents and guardians combining parenthood, family life and professional career (European Commission. Press release, 2017). The next step on the way towards the implementation of the European Pillar of Social Rights, suggested by the European Commission, is the establishment of the European Labour Authority (European Commission. Press release, 2018). This body will promote the growing capacity of the internal market, raising the mobility of the labour force as the result of the removal of existing barriers. Also, within the framework of performance of the European Pillar of Social Rights, the European Commission has drafted a new Directive on Transparent and Predictable Labour Conditions (European Commission. Press release, Dec. 2017). This draft directive supplements and modernizes the current procedures for informing employees of their working conditions. Besides that, measures have been put forward for the enshrinement of new minimum standards in order to guarantee all employees, including those engaged through unconventional work arrangements, the opportunity to enjoy clearer and fairer working conditions. New approaches to old problems attest to the struggle of the European Union to overcome poverty by increasing employment quality. The EU is striving to encourage Member States to introduce the necessary measures aimed at boosting employment in order to invest in people and reduce the burden of social provision resulting from large numbers of unemployed people. In addition, supranational bodies are trying to strike a balance between labour demand and supply through national employment policies. In the context of this process, the goal is not only to reduce



unemployment but also to improve employment quality. Against this backdrop, cooperation between national governments when implementing tools for ensuring effective and full employment is pivotal. That is why the European employment strategy constitutes a bright example of a compromise between different national standpoints as to the best way of fighting unemployment (Milner, 2004). While the above is illustrative of the fact that a common view is useful to resolve common problems, one cannot fail to note that most measures put forward by the European Union and its Member States frequently go unimplemented. As pointed out by Velluti, the absence of a mandatory legal toolkit constitutes a weakness of the European employment strategy and actually prevents achieving the expected results. Further, the fact that strategy implementation is dependent upon on Member States' economic and political situation, combined with its 'soft law' nature, does not ensure its further development in conditions of economic decay or political instability (Velluti, 2004). The lack of specific procedural rules and detailed instructions, the absence of clear competence delineation (Szyszczak, 2001) and the system of legal sanctions for non-compliance of the respective guidelines related to employment policy by certain Member States damage the legitimacy and efficiency of the European employment strategy as a form of advisory supranational law (Hodson and Maher, 2001). The European employment strategy is mainly a proposal strategy for the Union's macroeconomic policy, contributing to economic growth and demand for labour force (Biffl, 2007). However, the European employment strategy is not just about recommendations and suggestions. It has also introduced a specific process aimed at sharing policy implementation in the respective domain (so-called 'policy learning'). A change of policy via learning can lead to amendments that will be adjusted to the national employment policy context (de la Porte and Pochet, 2004). Thus, this instrument can be interpreted as a form of dynamic toolkit of the EU's 'soft law'. Due to the measures introduced under this strategy, soft foundations for further introduction of strict legislation in the field of employment can be secured (Velluti, 2004). The strategy in itself, as a management tool aimed at raising the efficiency of the social and economic system, cannot secure high levels of employment and independently promote economic growth (Biffl, 2007). It should be supplemented with other tools, e.g. the EU's labour law. The efficiency of strategy implementation directly depends on the high-quality, legal regulation of labour relations constituting a considerable component of social relations connected to employment. Moreover, ever since the approval of the Amsterdam Treaty, labour law has been considered an integral part of the European employment strategy and a tool for its implementation. As stated by Buun, employment policy, social engagement and sustainable social development promotion constitute

important goals of the EU labour law. The European employment strategy has come to be an approved format for coordinating the national labour law of the EU Member States (Buun, 2001).

### **2.3 The Employment Situation in Ukraine**

The Association Agreement between the European Union, its Member States and Ukraine has laid down a number of tasks for the latter that need to be carried out within the next five to seven years to bring national legislation into line with the EC's requirements, among which is that governing employment relationships. It should be pointed out that the European Union is already going into the direction of a wide interpretation of the employment problem (Pylypenko, 2014). For the global community, social stability rhymes with employment. How the right to work is ensured is not important. This is so as long as the majority of the working-age population is employed and is given the opportunity to make an income ensuring adequate living standards to participants of social organisations (Pylypenko, 2014). That is why the choice of the European development vector on the part of Ukraine requires urgent changes to its internal policy. A good starting point would be the development of a clear and effective national employment policy that would take into account all the key trends in the global labour market.

As referred to in Ukrainian Employment Legislation, national policy should be based on the principles laid down in the EU documents discussing employment-related issues, among which is the Europe 2020 Strategy. The first principle concerns ensuring full and productive employment at the time of implementing active social and economic policies on the national level.

The first of these principles is ensuring full, productive and freely chosen employment in the course of implementation of active social and economic policy of the state. And the state should be more responsible for the development and implementation of this policy. It aims to create equal opportunities for residents when exercising their constitutional right to work by all persons capable of work, to promote effective use of labour capacity and to ensure proper conditions for social protection of the unemployed.

The focus of Ukrainian legislation on employment is still on creating the conditions for economic development and job creation. This aspect is related to the promotion of entrepreneurship, encouraging companies to hire more. Helping people to start small businesses and engage in self-employment is also important. Unfortunately, Ukraine lacks the financial and economic means to support business creation in an efficient way. Many have called for a reform of the tax system, particularly in relation to labour costs and the difference between those concerning qualified and unqualified workers. Therefore, and

unlike the EU, unemployment benefits in Ukraine are provided through the system of social contributions, preventing self-employment from developing properly.

Legal and productive employment is another aspect touched upon by the government's labour policies, as currently those engaged in the informal economy account for almost 25% of workers performing activities contributing the social system (Tsymbal, O., Nezhyvenko O., 2018). Both parties have no interest in formalising the employment relationship, because it is a win-win solution. Yet, society as a whole is affected, with workers who might be left without social protection in the future. Notwithstanding this state of affairs, the Ukrainian government struggles to find efficient mechanisms for individual protection tackling undeclared work. Emphasis should be on encouraging the economically active population to promote legal employment by increasing state safeguards, irrespective of the working arrangements they are hired through. The spread of atypical labour contracts that fall outside the traditional labour relations calls for the need to regulate them (Vyshnovetska, 2017, p. 80). In spite of the calls of scholars to legally securing atypical employment, in Ukraine the transition from the industrial to the post-industrial phase of economic development is accompanied by the establishment of the post-Ford employment model, which is characterized by precariousness.

Reviewing the national remuneration system would certainly promote legal forms of employment. Most employers argue that the current remuneration system, which considers the complexity of the tasks performed and employee qualifications, works well in the public sector, but not in the private one.

Those holding public offices – e.g. judges, prosecutors – are well paid and their labour costs contribute to the social system. Conversely, employers in the private sector only pay the minimum wage to employees, with the latter who are also granted envelope wages which prevent social unrest.

An attempt to make salaries more uniform was made at the end of 2016. However, instead of the classic mechanism for determining the official rate of pay based on the statutory minimum wage, it was established to determine it on the basis of the subsistence minimum (minimum subsistence wage) for able-bodied persons, which was envisaged for in 2016 legislation. According to the current system used to determine the pay rate, only employees with the highest qualifications rank (above grade 12) could expect a rise. The rest of employees having qualifications failing in rank 1 to 11 is paid remuneration equal to the statutory minimum wage. In such circumstances, workers are neither encouraged to work nor to further their qualifications. In this uncertain context, mention should be made of Ukrainian employment legislation. The relevant provisions set forth that a reimbursement should be provided to employers who in the course of 12 months put forward job-creation initiatives,

thus take on new workers and promised to pay them not lower than three minimum salaries. Reimbursement should be granted if employers ensure the mentioned salary to new hirers over a 12-month period. However, the amount of actual remuneration paid to employees far exceeds the amount that the employer can obtain on his/her own initiative. Such a mechanism thus frustrate any initiative.

This rule passed on 1 January 2017, a time when remuneration was based on the provision on the minimum wage. After changes were made to the remuneration system, the exceptions envisaged by statute did not seem to be founded on a sound basis. In other words, wages amounting to at least three minimum wages correspond to level 17 or 18 in the employee grading system. If these figures are considered, employers are far from creating new job and income opportunities for workers. Consequently, while acknowledging the efforts made by Ukraine in employment, one cannot fail to note that major shortcomings exist in relation to policy implementation.

This state of affairs is also determined by the fact that, in order to implement new labour policies, many aspects should come into play, involving the fiscal and the credit system, investments, state budget and so forth. Against this background, the activities promoting the re-employment of dismissed people should be envisaged, which should also consider Russian presence at the country's eastern borders. The law makes provisions for covering the costs of moving registered unemployed people to other inhabited settlements, meeting medical costs if employment centres deemed them to be necessary. Employers taking on job-seekers through fixed-term employment contracts lasting no more than six months will be granted the reimbursement of labour costs, as long that they are not higher than the average salary in the reference region. The government will also bear the costs of training and re-training if workers are offered contracts lasting at least one year. As for small-sized businesses hiring unemployed people to perform main economic activities for no less than two years upon the recommendation of employment centres, they will be refunded the costs borne for the hiring on a one-off basis, which also includes the cost of mandatory social insurance.

Ukraine's new employment policy has focused significantly on ensuring coordination and monitoring of the activities of the entities providing employment services (e.g. intermediation). This is true if one considers that employment agencies have become particularly popular among jobseekers after their legitimation, as they provide full and reliable information about job vacancies. Employment agencies cooperate actively with public employment and migration centres, with the former which are obliged to provide information about the number of people who are processed. In order to ensure jobseekers their labour rights, private employment agencies cannot advertise

job vacancies which might result in health-related risks or discrimination practices. This ban also applies in case of companies operating abroad. In other words, employment agencies should be awarded a license to operate overseas and should provide a statement of an employer or a recruitment agency located outside Ukraine in which it is made clear that job openings are available. The employment contract offered to workers should also be certified. After Ukraine was granted visa-free status for entering other EU countries, many Ukrainians rely upon these agencies to seek work abroad, as they assist people with legal and social contribution issues. Further, the task of developing and implementing state policy in the field of public employment lies with the central authority having executive powers, namely the Ministry of Social Policy of Ukraine. However, the Cabinet of Ministers, as well as other national and local bodies, have competence on these issues. Local employment programs envisage activities aimed at striking a balance between labour demand and supply, ensuring the employment of citizens having additional guarantees in employment promotion. Unfortunately, the Cabinet of Ministers of Ukraine, which is in charge of implementing employment policies at the national level, took seven years to approve the relevant programme, that is from September 2010 to 2017. Yet this project became the basis for devising local public employment initiatives. Taking the above into account, there is an urgent need for developing a new long-term employment program, also as the result of recent social and economic changes. In addition, the high levels of unemployment in Ukraine have led to the passing of new legislative acts. While reducing the number of people without a job, these new measures should also encourage national and local authorities to create new job opportunities, encouraging young people to engage in community work. Also, there arises the need to determine the legal status of individuals performing some work under civil law agreements and other non-standard labour forms, to care for their social protection, to take millions of people out of the shadow economy (Matsko, 2015, p. 397). Under these conditions, labour laws must also apply to individuals engaged in atypical work. To this end, modern approaches concerning the legal regulation of the employment relation should be adopted. This includes more flexible provisions, which would protect the interests of those concerned to the best extent possible and create sufficient opportunities for achieving full and productive employment (Pylypenko, 2014, p. 197). It is also important to improve organizational management in the field of employment. In this sense, the cooperation between employment centres and the authorities in charge of social protection could be taken as an example. Since there are more than a million individuals unemployed, a special department should be established to deal with their registration, accounting and social protection (Matsko, 2015, p. 397).

### 3. Conclusion

Comparing employment regulation in Ukraine and the European Union, it is clear that the former still lags behind EU standards. State bodies are not willing to apply efficient protection mechanisms to tackle illegal employment and the fragmented nature of employment reforms affects the efficacy of legal regulations. Furthermore, little has been done in Ukraine to strike a balance between work and family life. Taking the above into consideration, Ukraine must implement its employment policy as soon as possible, with due account of all the trends featuring EU labour market regulation, as well as developing its own improvement measures. The EU's experience proves the efficiency of the mechanisms used to improve its employment situation. In particular, the approximation of national legal systems and quality changes in the EU labour legislation have yielded positive results. Today at the level of the European Union, improvements in the situation with employment can be traced, and the level of employment has reached its record high. In 2018, unemployment got back to its level before the crisis, though it still remains high in a number of countries. The share of woman and senior people in the labour market keeps rising. Also, the situation with employment of young people is improving. The frequency of the use of atypical employment forms at the EU levels has stabilized, but high segmentation of the labour market can still be traced there (The Commission and the Council, 2019). The reform of EU labour legislation promotes achievement of a better balance between flexibility and security, aimed at avoiding labour market segmentation. Within the employment strategy measures, EU social and labour standards have not just been preserved, but even expanded via new legal norms enshrining efficient guarantees of the implementation of the rights of employees and workers. In fact, preservation of social and labour standards is perceived as an important demand management factor that contributes to increased productivity and economic growth (Biffl, 2007, p.4). Against this background, we may speak of a mutual influence between EU labour laws and the employment situation in EU countries. On the one hand, expectations in the labour market dictate changes in legal regulation. On the other hand, the quality of rules governing labour relations has a direct effect on the rate and fullness of employment. That is why Ukraine should approach the approval of the Labour Code of Ukraine with renewed vigour, ensuring the implementation of employment regulations and setting aside inefficient norms preventing the adequate functioning of those mechanism promoting high rates of employment.

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# Milan Nedic's Quisling Regime and Forced Labor in Serbia from 1941 to 1944

Marija Obradović and Nada Novaković<sup>1</sup>

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## Abstract

**Purpose** – The study aims to substantiate the approaches and principles of forming and regulation a model of social and labor relations of Kazakhstan adequate to the modern conditions of economic development.

**Design/methodology/approach** - The creation of an effective model of social and labor relations should proceed from the multifaceted nature of their manifestation.

**Findings** – The article describes the current Kazakhstan's model of labor relations and its basic parameters; determines the external and internal factors; specifically, the influence of the new labor law on its further development in the direction of democratization and the establishment of social partnership as a regulatory institution in the labor relations field.

**Research limitations/implications** - Proposals to improve organizational and legal support for the long-term model of social and labor relations in the Republic of Kazakhstan.

**Originality/value** - Result is the model of the system of social and labor relations proposed by the author, which allows us to cover the multifaceted nature of this phenomenon, to unite the influence of the external environment and the internal complex of their mutual relations and interdependencies. The study is carried out as part of a project funded by the Science Committee of Kazakhstan.

**Paper type** – Research article.

**Keywords:** *Social and Labor Relations, Kazakhstan, Model, Labor Market Institutions, Social Partners.*

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<sup>1</sup> Marija Obradović (corresponding author, email address: m.obradovicinis1@gmail.com) is a researcher at the Institute for Recent History of Serbia, Belgrade (Serbia). Nada Novaković is a researcher at the Institute of Social Sciences, Belgrade (Serbia).

## 1. Introduction

Revisionist narratives are currently highly present in the historiography of Serbia. The main directions of such revisionism refer to denials of the collaborationist nature of the Chetnik movement and Nedic's quisling administration in Serbia, as well as the crimes they committed. Historical revisionism in Serbia is accompanied by legal rehabilitations, primarily of the members of Draza Mihajlovic's Chetnik Movement in 2004, and then of Draza Mihajlovic himself in 2011.

In 2003 the Serbian Orthodox Church canonized Bishop Nikolaj Velimirovic, the founder of the political ideology of Saint-Savian nationalism which was the basis for the fascist organization, Zbor, lead by Dimitrije Ljotic.

2008 saw the launch of the court case, which is still ongoing, for the rehabilitation of Milan Nedic who was the head of the quisling administration in Serbia during the World War II. During the trial for his rehabilitation, the historical fact that Nedic was responsible for war crimes involving the forced mobilization of civilian manpower during the occupation of Serbia in the Second World War was completely omitted from the court hearing.

The Serbian collaborationist administration lead by Milan Nedic committed numerous war crimes and was responsible for the murder of over 150,000 people during the German occupation of Serbia during the Second World War.<sup>2</sup>

Alongside those crimes, pursuant to the findings of the Federative People's Republic of Yugoslavia (FNRJ) State Commission for Determining War Crimes Committed by the Occupiers and their Collaborators, Nedic's quisling administration also committed the war crime of the forced mobilization of civilian labor from the occupied population for engagement in the German war economy on the territory of the Reich as well as on the territory of occupied Serbia.<sup>3</sup>

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<sup>2</sup> In the *Žrtve rata 1941-1945* (Victims of War) register in 1961, it was established that on the territory of Serbia (excluding Vojvodina) the occupiers and their collaborators were responsible for the registered deaths of at least 93,167 people. If we take into consideration that the Census Commission provided its opinion that on the whole territory of Yugoslavia, according to the census from 1964, only 56-59% of the victims were registered, the assumption is that the number of victims on the territory of Serbia stands at somewhere between 157,910 and 166,370, but that assumption has not been proved exactly. From the established number of 93,167 fatalities on the territory of central Serbia (listed by 2003) 37,079 were members of the National Liberation Army of Yugoslavia, i.e. the Yugoslav Army (NOVJ/JA). See: Milan Radanović, *Kazna i zločin. Snage kolaboracije u Srbiji, odgovornost za ratne zločine 1941-1945) i vojni gubici (1944-1945)*, (Beograd: Rosa Luxemburg Štiftung, 2016), 580.

<sup>3</sup> See: Milan Borković, *Kontrarevolucija u Srbiji Kvislinška uprava u Srbiji 1941-1944*. Volumes 1-2 (Beograd: "Sloboda", 1979); Nikola Živković, *Ratna šteta koju je Nemačka učinila Jugoslaviji u*

The practice of the mobilization of the occupied population for the purpose of work for the occupiers' war efforts was strictly forbidden by international laws of war, particularly by the conventions of the Regulations Respecting the Law and Customs of War on Land and its annex by the Hague Convention (IV) which in section III regulated the Military Authority over the Territory of the Hostile State, adopted at the international peace conferences in The Hague in 1899 and 1907<sup>th.4</sup>

*a) The Occupiers' Partition of Yugoslavia and the Establishment of the Quisling Regimes during the Second World War*

After the demonstrations held in Belgrade on 27<sup>th</sup> March 1941, in which the members of the Communist Party of Yugoslavia also participated, a *coup d'état* was conducted in the Kingdom of Yugoslavia. Prince Pavle Karadjordjević's three-member regency was thus dethroned and Cvetkovic-Macek's Government overthrown, which previously, on 25<sup>th</sup> March, had signed the Vienna Protocol on Accession to the Kingdom of Yugoslavia to the Tripartite Pact.

Shortly afterwards, Germany launched an attack on Yugoslavia by bombing Belgrade on 6<sup>th</sup> April 1941. The Royal Yugoslav Army was defeated by Germany in the short-lived April War. This military defeat was not only followed by occupation, but also by the partitioning of Yugoslavia and the establishment of occupational zones, and quisling states and regimes on its territory.

Germany, Italy, Hungary and Bulgaria lead an aggressive campaign of legalising the partitioned territories, based on the concept of debellation, neglecting not only the fact that the forced ending of statehood was untenable from the point of view of international law, but also that the new royal Yugoslav government-

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*drugom svetskom ratu* (Beograd: Institut za savremenu istoriju i NIP Export Press, 1975); Živko Avramovski, *Treći Rajh I Borski rudnik* (Bor: Muzej rudarstva I metalurgije, Rudarsko-topioničarski basen Bor, 1975); Sima Begović, *Logor Banjica 1941-1944*. tom 1-2 (Beograd Institut za savremenu istoriju i., 1989); Tomislav Pajić, *Prinudni rad I otpor u logorima Borskog rudnika 1941-1944*, ((Beograd Beograd: Institut za savremenu istoriju i 1989); Olivera Milosavljević, *Potisnuta istina. Kolaboracija u Srbiji 1941-1944*. (Beograd: Helsinki Committee for Human Rights in Serbia, 2006); Zoran Janjetović, *U skladu sa nastalom potrebom. Prinudni rad u okupiranoj Srbiji 1941-1944*. (Beograd, Institut za noviju istoriju Srbije, 2012); *Logori, zatvori I prisilni rad u Hrvatskoj/Jugoslaviji 1941-1945, 1945-1951*. (Zagreb: Croatian Institute of History, 2010); exhibition "Propagadni plakat u Nedićevoj Srbiji", held from 20<sup>th</sup> November until 10<sup>th</sup> December 2015 in Novom Sadu, authors: custodians-historians Kristina Meneši and Vojislav Martinov.

<sup>4</sup> *The Exploitation of Foreign Labour by Germany* (Montreal: International Labour Office, 1945), 283

in-exile, established and located in Great Britain during the war, had declared the continuation of the war.

Through the establishment of dependent regimes and the creation of non-independent states on the territory of Yugoslavia during the Second World War, Germany and its allies emphasized that they were righting the wrongs of the Versailles system. They claimed to be destroying an artificial state creation and liberating the nations enslaved within it, but were in fact satisfying their territorial aspirations based on historical and ethnic motivations.

Germany adopted the "Temporary Directives for the Partition of Yugoslavia" on 12<sup>th</sup> April 1941. According to those directives, parts of Slovenia, and chunks of the Dolenjska, Stajerska, Koruska and Meznicka valleys were annexed by the Third Reich, and the rest of Slovenia was divided between Italy and Hungary. Parts of Vojvodina, Backa, Baranja, Medjumurje and Prekomurje were occupied to form part of Hungary. Macedonia was divided between Bulgaria and Italy, i.e. between their Albanian quislings. Dalmatia and Montenegro were occupied by Italy and Croatia and Bosnia and Herzegovina became the Independent State of Croatia.

Serbia, which encompassed Banat, the Bor Mine region, Old Serbia, and the Kosovska Mitrovica region including the Lapski, Vucitrnski and Zvecanski districts fell under the German Military Administration.

Bulgaria occupied the Vranjski and Pirot districts, i.e. southeastern Serbia. Kosovo was mainly in Italy's sphere of interest, but parts were controlled by the Bulgarians and Germans (the Kosovska Mitrovica region) for the exploitation of the Trepca Mine and securing the railway in the Ibar valley.

The territory in Yugoslavia occupied by Germany during the Second World War encompassed a surface area of 128,000 km<sup>2</sup> with around 10 million citizens, by Italy over 80,000 km<sup>2</sup> with 4 million citizens and by Hungary 11,600 km<sup>2</sup> with 1,145 000 citizens.<sup>5</sup>

### *b) The Use of Manpower by Germany in the Second World War*

The policy of systematic forced mass mobilization, the brutal exploitation of foreign manpower in industrial and agricultural production, and the exploitation of ore and forests were the main characteristics of Germany's war economy during the Second World War on its own territory as well as on those under occupation.

The International Labour Organization (ILO) has established that during the war, Germany used the work of between 30 and 35 million people for its war

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<sup>5</sup> Branko Petranović, *Istorija Jugoslavije 1918-1988*, Druga Knjiga, (Beograd: Nolit, 1988), 31.

efforts.<sup>6</sup> Hence, the systematic use of foreign manpower by Germany to increase its production capacities was one of the significant aspects of the Second World War, unprecedented in previous European history. It is believed that without it Germany would not have been able to wage war for so long.

The German war industry and agriculture were extremely dependent on foreign workers who were conscripted and held through the powerful machinery of coercion. At the end of the war, a large number of factories in Germany comprised over 90% of laborers from occupied countries.

The existence of so-called 'employment contracts' for foreign laborers was mostly fictitious because people from the occupied territories were, against their will and on the basis of the forced mobilization of labor, engaged, especially by the Todt Organization, in the construction of fortifications, i.e. in the so-called "Western Wall", motorways, factories etc.

Foreign workers were deprived of their basic human rights: the right to free movement and choice of residence, the right set up home with their families, the right to raise and educate their children, the right to marry, the right to free movement in public places, the right to negotiate their conditions of employment individually or through freely elected union representatives, the right to set up unions, and the right to free speech and freedom of expression.

Workers of Jewish, Polish and Russian nationality were in the worst position. Jews received no compensation for their work at all, while the wages of Poles and Russians were almost half that of German, French, Dutch and Belgian workers. Such workers were placed in collective accommodation and were not allowed to leave work at their own discretion. Their food was rationed.

For German citizens, compulsory labor service was introduced as early as June 1938 by Hermann Goering. The right-to-work, introduced by the Weimar Constitution, was systematically abolished and the system of forced labor was gradually introduced. By the end of the war, wages had failed to reach the level from 1929.<sup>7</sup>

The policy of forced systematic mass mobilization and the brutal exploitation of the working class, with the annulment of freedom to work and the right-to-work, as well as the policy of privatization of capital<sup>8</sup>, as the main features of Nazi Germany's economic strategy, represented a complete turnabout from the Weimar Republic.

One of the main characteristics of the German war economy was mobilization through the forced labor of a huge mass of people, with the goal of their

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<sup>6</sup> The Exploitation, 64.

<sup>7</sup> The Exploitation, 2, 4, 8, 12.

<sup>8</sup> About Nazi privatization of capital in Germany 1933, see: Marija Obradović, *Hronika tranzicionog groblja. Privatizacija društvenog kapitala u Srbiji 1989-2012.* (Beograd: Nova srpska politička misao, 2017.)

extensive use in production. Before the attack on Poland and Czechoslovakia, Germany was striving to compensate for the drop in productivity of its economy in comparison to other developed European countries through the increase of manpower.

The consequence of the revocation of freedom to work, as a basic civil liberty and human right, was that forced labor was at the basis of all work in German's war economy during the Second World War, particularly that of foreign workers.<sup>9</sup>

We should emphasize that the German General Plenipotentiary for Labor Deployment during the war, Ernst Friedrich Christoph "Fritz" Sauckel, was sentenced to death for war crimes and crimes against humanity at the Nuremberg trials, and was hanged in 1946.

Collaborationist administrations in occupied European countries were of particular importance in recruiting manpower and their subsequent deportation to Germany to work in the war industry.

Pursuant to the International Labor Organization, Nedic's collaborationist administration in occupied Serbia particularly stood out in terms of its close cooperation with the Todt Organisation in the brutal recruitment of manpower and its deployment in various branches of Germany's war economy. Nedic's collaborationist administration recruited people for compulsory labor in the Bor Basin which was managed by the aforementioned organization.

In its report from 1945, the Montreal International Labor Office highlighted the particular significance of Nedic's collaborationist propaganda in providing manpower for the German war company Todtbor. Through propaganda texts and adverts in newspapers, particularly in the *Novo Vreme* daily, the administration attempted to convince the Serbian population that six months compulsory labor should not be perceived as a punishment, but as the duty of all Serbian citizens, regardless of the fact that leaving this work without a permit was punishable by a period of three months forced labor.<sup>10</sup>

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<sup>9</sup> In legal terminology forced labor is "a measure whereby one or more persons, or an entire category of people, are sent for compulsory work to a specific place or for a specific time and under threat of sanctions for failure to comply". *Zabrana prinudnog rada i savremeno ropstvo* (Beograd: Pravna klinika za suzbijanje trgovine ljudima, Pravni fakultet, Univerzitet u Beogradu, 2011), 4.

<sup>10</sup> *The Exploitation of Foreign Labour by Germany* (Montreal: International Labour Office, 1945), 80.



*c) The Role of Nedic's Collaborationist Administration in the Inclusion of Serbia's Economic Potential in the German War Effort*

After the capitulation of the Kingdom of Yugoslavia on 17<sup>th</sup> April 1941 and the partition of the country by the occupiers, military administration was established in Serbia, in the institutional sense, by the order of the High Command of the German Armed Forces (Oberkommando des Heeres – OKH) on April 13<sup>th</sup> 1941.<sup>11</sup> Milan Nedic formed the so-called “Government of National Salvation” on August 29<sup>th</sup> 1941.

This refers to the collaborationist administration established by the German Army Commander in Serbia which had two goals, to suppress the Partisan's national-liberation movement in Serbia and to mobilize all Serbian economic potentials in the aim of supporting Nazi Germany's war effort.

Banat was significant for its wheat lands and the Bor Mine which was the biggest copper mine in Europe at that time. The Trepca lead and zinc mines were also of great importance for the German war effort, as were the Belgrade-Nis-Sofia and the Belgrade-Nis-Thessalonica railways. In addition, with the help of Nedic's quisling apparatus, Nazi Germany wanted to fortify its occupation system in Serbia and to reduce the engagement of its troops in this region.

Germany's first step after the occupation and partition of Yugoslavia was to establish control over its economic potentials and to secure supplies for its military machinery with the necessary military materials, food, petrol, and so on. Soon after capitulation, the Germans took four billion dinars in cash in suitcases from the defeated Yugoslav Army, approximately two billion from Serbia and two billion from the Independent State of Croatia. In addition, following the surrender of Yugoslavia, the Germans in occupied Serbia confiscated 14,165 metric tons of iron and steel, 7,020 tons of blister copper, 1,957 tons of lead, 12,170 metric tons of chrome ore, 11,360 metric tons of unprocessed tobacco, 1,174,000 meters of cloth, 20,000 pairs of shoes, 55,000 hides and 55 million cigarettes. In order to satisfy the needs of its troops on Serbian territory, the Germans also confiscated 20,121 metric tons of food and 39,609 metric tons of petrol.<sup>12</sup>

The report on the Serbian economic situation, which the German special plenipotentiary for economic affairs in Serbia, Franz Neuhausen, sent to Hermann Goering at the end of 1942, testifies to the transitional role of

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<sup>11</sup> Dr Tomislav Pajić, *PRINUDNI RAD I OTPOR U LOGORIMA Borskeg rudnika 1941-1944*. (Beograd, Institut za savremenu istoriju, 1989), 36.

<sup>12</sup> Jozo Tomasevich, *War and Revolution in Yugoslavia, 1941-1945. Occupation and Collaboration* (Stanford: Stanford University Press, 2001), 617, 623, 624.

Nedic's collaborationist administration in the German occupation system in Serbia. According to that report, the quisling administration was maximally engaged in this plan, not only as commanders, but also as executors of the decisions made by the German occupying administration in Serbia.<sup>13</sup> The goal of German support for the establishment of Nedic's quisling administration in Serbia was to ensure that all the available capacities of the Serbian economy were placed in the service of the German war effort, i.e. the ruthless exploitation of manpower and resources.

One of the functions of Nedic's quisling administration was to enable the confiscation, i.e. the requisition of agricultural products, primarily cereals, meat, dairy products, livestock, fruit, eggs, wool, poultry, fats, fodder, wood and coal for the needs of the German and Bulgarian occupying armies in Serbia and, partially for export to Germany and Italy. In that aim the directive on the compulsory consignment of wheat surpluses was adopted. This was the essence of Nedic's administration of the directive on planned agricultural production from 17<sup>th</sup> February 1942, i.e. the "planned agricultural policy". In that way, for instance, Nedic's administration placed 9,000 carloads of wheat and 38,000 carloads of corn at the disposal of the German Army, despite the poor crop, amounting to almost 80% of the harvest. Nedic's administration set up court-martials for farmers who did not cultivate their land and failed to deliver their quotas. The persecution of 'peasant farmers', i.e. farmers without land, was also carried out as well as their forced mobilization for public works. Compulsory grain deliveries were introduced in occupied Serbia in January 1942. Penalties for failing to provide the compulsory quotas were regulated by the provision on corporal punishment and the requisition of all products without compensation.

During 1942, 320,000 tons of wheat, 600,000 tons of corn, 90,000 tons of oats, 15,000 tons of fats, and 75,000 tons of oilseeds were exported from Serbia to the German Reich.<sup>14</sup>

Villages were devastated by excessive requisitions. Farmers were allotted, per hectare, 140 kilograms of wheat to be planted per year and 120 kilograms per family member for food, and everything else had to be handed over to the occupier at low prices. However, food shortages and starvation in villages was not as serious as in towns and cities.

From the report compiled by the military-administrative commander of Serbia from 7<sup>th</sup> February 1942, it can be seen that in Belgrade there was no bread, wood, coal, or lard. The black-market was booming.

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<sup>13</sup> AVII Na,k.44, f-1, rol.1/20.

<sup>14</sup> Milan Borković, *Kontrarevolucija u Srbiji Kvislinška uprava u Srbiji 1941-1942.* knjiga 1 (Beograd: "Sloboda", , 1979), 115, 389, 390.

In bigger towns around Serbia the economic conditions were exceptionally hard during the country's occupation. Obtaining basic supplies for the population was virtually impossible. Food, clothing, and footwear had disappeared from the market. Some goods were destroyed during the bombing, while others were requisitioned by the Germans, and what was left was kept aside by owners for themselves for the forthcoming 'rainy days'.

Bread disappeared from sale. In order to obtain the guaranteed food rations people were forced to wait in long queues and there were serious shortages of meat, bacon, lard, oil, flour, sugar, salt, rice etc.

In 1942, bread rations were reduced from 400 to 250 grams. In the middle of July 1942, a kilogram of flour on the black market reached the price of 400 dinars, and corn 300 dinars, while a kilogram of meat stood at 2,000 dinars and a meter of wood 4,000 dinars. At the same time, the possibilities to earn a living were also dramatically reduced. The wages for qualified workers ranged between 100 and 150 dinars, while the average income of clerks was between 2,000 and 3,000 dinars.

In towns and cities, people mainly wore shoes with thick wooden soles, and the quisling press declared these ugly and uncomfortable shoes as the 'people's shoe'. The textile (clothing) and leather processing factories (shoes) worked for the needs of the occupiers and not those of local citizens.<sup>15</sup> During World War II, most of the production in the field of industry and mining in Serbia was used for the Third Reich's war needs.

On the basis of the number of ration cards, it is assumed that approximately 305,000 workers were employed in Serbia during the occupation. Since around 40% of Serbia's national income was spent on occupation costs, Joza Tomasevich believes it can be claimed with certainty that half of the employed population of Serbia during the occupation were working for the Germans.<sup>16</sup>

On Germany's initiative the quisling administration created the plan for the management of the economy in order to regulate economic life, i.e. adopted the resolution to centralize plans for the entire economy in the Ministry of the Economy. The plan to manage the economy was made by the Minister of the Economy, Forestry and Mining, Dr. Milorad Nedeljkovic, and the management of agriculture by the engineer Dobroslav Veselinovic.<sup>17</sup>

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<sup>15</sup> Dr Milica Milenković i dr Toma Milenković, *Zapošljavanje u Srbiji od zacetka do oslobođenja zemlje 1944*. (Beograd: Republički zavod za tržište rada, 2002), 278,279.

<sup>16</sup> Jozo Tomasevich, *War and Revolution in Yugoslavia, 1941-1945. Occupation and Collaboration* (Stanford: Stanford University Press, 2001), 654.

<sup>17</sup> See: Dragan Aleksić, *Privreda Srbije u Drugom svetskom ratu* (Beograd: Institut za noviju istoriju Srbije, 2002).

Germany obliged Serbia to establish a managed economy in order to provide its army and war industry with a steady supply of agricultural products, metals, wood and other raw materials.

Precise quotas for the delivery of various goods were never agreed between Nedic's administration and the German military command, but the Germans took various products according to their needs. During the purchase of agricultural products such as wheat, corn, barley, meat, milk, lard, beans, potatoes, poultry, and eggs etc, compensation was paid in fixed prices set by the Germans in local currency.

Through Nedic's Ministry of Forestry, the German occupier seized wood for fuel and construction, particularly spruce for airplanes. Lead, copper, antimony, pyrite and gold were also 'exported' through this same ministry.

The Germans carried out the systematic exploitation of the forest and mining industries in occupied Serbia, exporting quantities pursuant to their needs. In 1941 production in the Bor Mine met 20% of the German occupier's copper needs.

Hence, the use of raw copper, lead, iron, and coal from the Bor, Trepca, Kostolac, Zajace and Mackatica mines was of particular importance for the German military command in occupied Serbia.

Full control over the economy in occupied Serbia was held by the German special plenipotentiary for economic affairs, Franz Neuhausen, a rich industrialist and Goering's direct representative for the Four Year Plan in occupied Serbia. His executives were directly connected with the Ministry of the Economy and Agriculture in Nedic's administration.

The apparatus of Nedic's quisling administration was also engaged in the extraction and removal of machinery and tools from Serbia to Germany. From the Military Technical Institute in Kragujevac, in 1941, the Germans took 108 carloads of machines and tools, and in January 1942 alone, 2,410 machine tools, 24,406 various tools, 250 cases of tools, 562 carloads of various materials, 11 carloads of construction materials and 10 carloads of chemical products.<sup>18</sup>

Thus, the establishment of the managed economy on the part of Nedic's quisling administration enabled the German occupier to carry out the premeditated plunder of Serbia.

During the occupation, Nedic's quisling administration paid the German military command contributions in the amount of 200 million marks each year. In 1942, Nedic's collaborationist administration provided 200 million dinars for the organization and equipment of the 7<sup>th</sup> SS Prinz Eugen Division, which

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<sup>18</sup> Milan Borković, *Kontrarevolucija u Srbiji Kvislinška uprava u Srbiji 1941-1942. knjiga 1* (Beograd: "Sloboda", 1979), 390.

comprised Germans from the Banat region, as well as 250 million dinars for the organization and equipment of the Russian Protective Corps which formed part of Germany's armed forces.

The total contributions which Nedic's collaborationist administration made to the German occupier amounted to 32,910 million dinars: 4,300 million dinars for debts to German troops, 368 million dinars for the exchange of the occupation currency, 80 million dinars for compensation to *Volksdeutsche* for war damages, 6,200 million dinars for the reconstruction of communications and 22,300 million dinars for general expenses. These figures were published by the national liberation administration on 23<sup>rd</sup> November 1944 in the *Borba* daily.<sup>19</sup>

#### *d) Manpower Recruitment Methods in Serbia during the Second World War*

In the part of Serbia under German occupation, the control over the recruitment of manpower was in the hands of the commission (Stab Generalbevollmachtigten für die Wirtschaft in Serbien) which formed part of the German Military Administration, receiving instructions from the commissioner of the Four Year Plan, Hermann Goering.

Special recruitment agents were employed after 1<sup>st</sup> July 1941. Since "the majority of the population of the fractured State of Serbia was made up of small and medium-sized farmers who had always maintained their land and had never been migrant workers, rural areas were not taken into consideration and the recruitment could only be carried out in towns and larger villages". However, the "call to unemployed populations to seek jobs in Germany (only) had a certain degree of success. Greater interest was only present in the Banat region."<sup>20</sup> In the light of that failure, the German administration decided to introduce compulsory labor on the occupied territory of Serbia. Workers recruited on the basis of compulsory labor were mainly employed in companies which worked for the requirements of Germany's war effort and therefore, for instance, miners from Serbia could not be recruited to Germany.

For other categories of workers a big propaganda campaign was carried out by means of posters and leaflets comparing the working conditions in Serbia with those in Germany. Newspapers in Serbia reported daily on the possibilities of finding work in Germany, and the head of the German occupying administration's recruitment of manpower division and the Serbian central Labor Exchange made daily appeals on the radio etc.

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<sup>19</sup> Jozo Tomasevich, *War and Revolution in Yugoslavia, 1941-1945. Occupation and Collaboration* (Stanford: Stanford University Press, 2001), 667, 668.

<sup>20</sup> *The Exploitation*, 260.

In August 1942, a temporary stoppage of the recruitment of manpower for work in Germany was even implemented in order to ensure sufficient manpower for those companies in Serbia which were working for Germany, such as the Bor Mine.

The main goal of Nedic's quisling propaganda was the attempt to convince citizens that Serbia could gain certain benefits from the German occupation, i.e. benefits from working for the occupying forces.

According to the ILO's data published in 1945, 70,000 laborers from Serbia, 95,000 prisoners of war (mostly Serbs), 200,000 laborers from the Independent State of Croatia, as well as 28,000 laborers from the occupied territory of Slovenia worked in forced labor in Germany during the war.<sup>21</sup>

Yugoslavian data claims that 300,000 workers from the territory of occupied Yugoslavia were deployed for work in Germany, not counting 200,000 prisoners of war and inmates. In official talks between the Socialist Federative Republic of Yugoslavia and the Federal Republic of Germany, this number was agreed as the final figure.<sup>22</sup>

"In the hearing in the State Security's investigative prison after the war, the Interior Minister in Nedic's Government during 1943 and Social Policy and National Health Minister in 1944, Tanasije Dinic, stated that over 150,000 workers from Serbia were mobilized for forced labor in Germany."<sup>23</sup>

*e) The Activities of Nedic's Quisling Apparatus in the Mobilization of Manpower for the Needs of Germany's War Economy*

From Germany's point of view, which was experiencing a chronic lack of manpower, the significant function of the establishment of Nedic's administration in occupied Serbia was both to mobilize and send manpower to work in Germany and to secure production in order to satisfy Germany's war needs in Serbia's copper, lead, zinc, and coal mines and the wood industry through compulsory and forced labor.

The forced mobilization of manpower in occupied Serbia during the Second World War was carried out by Nedic's quisling apparatus. This involved the recruitment of the active working population for work in Germany, as well as the implementation of compulsory labor. Every able-bodied working man in occupied Serbia had to do poorly paid work for part of the year for the needs

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<sup>21</sup> The Exploitation, 260, 261, 264; Jozo Tomasevich, *War and Revolution in Yugoslavia, 1941-1945. Occupation and Collaboration* (Stanford: Stanford University Press, 2001), 659.

<sup>22</sup> Nikola Živković, *Ratna šteta koju je Nemačka učinila jugoslaviji u drugom svetskom ratu* (Beograd: Institut za savremeni istoriju i NIP Export Press, 1975), 171.

<sup>23</sup> Milan Borković, *Kontrarevolucija u Srbiji. Kvislinška uprava u Srbiji 1941-1944, knjiga 2* (Beograd: "Sloboda", 1979), 63.

of Germany's war economy, as well as work through the National Service for the Renewal of Serbia, which was established in May 1942. Nedic's administration organized the dispatch of members of the Jewish and Roma populations to unpaid forced labor in mines, particularly in the Bor Mine, where the captured members and sympathizers of the revolutionary-democratic national-liberation movement and members of the Communist Party of Yugoslavia (KPJ) were also sent.

The forced mobilization of manpower for work in Germany as well as for compulsory labor was carried out through the district and regional prefectures of Nedic's collaborationist administration, the Public Employment Service, which, in addition to Belgrade, also had branches in Nis, Kragujevac, Sabac, Pancevo, Kikinda and other towns, and the Gestapo and Special Police were often included in it.

"It was enough for a certain household to show disobedience in the delivery of wheat, meat, milk or some other product, to be forcedly transported to Germany to work for several months. A similar fate awaited citizens suspected of cooperating with or helping the national-liberation movement. The majority of workers refused to go to work to Germany."<sup>24</sup>

The founding and work of so-called 'labor' institutions, such as the Main Bureau for Labor Insurance, the Main Directorate for Employment - the Public Employment Agency, the Brotherhood Treasury, the Serbian Labor Union, and the Commissariat, i.e. Ministry of Social Policy and National Health, which coordinated the work of all those institutions, served directly for the forced mobilization of manpower and its deployment at objects of interest for the economy of the German Reich.<sup>25</sup>

The employment and dismissal of workers, their wages, working hours and other issues were regulated by the special provision which the German Military Command in Serbia had issued on 12<sup>th</sup> May 1941.

The working class experienced harassment, hard labor, starvation, unemployment, illness and unprecedented exploitation during the occupation. The wages of apprentices and assistants were often on the level from 1935 even though the cost of living in Serbia had increased disproportionately after occupation.

Large numbers of workers in Belgrade worked an average of 10 to 12 hours a day. Their wages were only 30 to 40 dinars, while prices for food, which was scarce and difficult to find, reached dizzying amounts on the black market. For

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<sup>24</sup> Milan Borković, *Kontrarevolucija u Srbiji Kvislinška uprava u Srbiji 1942-1943. knjiga 2* (Beograd: "Sloboda", 1979), 59.

<sup>25</sup> Borković, *Kontrarevolucija u Srbiji*, knji. 2, 46.

instance, the price of a kilogram of lard ranged between 300 and 350 dinars, cream cheese 200 to 250 dinars, bacon 250 to 300 dinars etc.<sup>26</sup>

As head of the Serbian Labor Union, established on 12<sup>th</sup> February 1942, Milan Nedic often addressed workers in Serbia through the radio and the press, urging them to carry out the orders of the quisling administration and the German occupying authorities, to achieve maximum productivity in order to make their contribution to the victory of the Axis Powers over the anti-fascist coalition and to fight against communism within the country.<sup>27</sup>

Because of the lack of manpower in Germany as a result of the war, its military administration, with the help of collaborationist administrations, attempted to mobilize as many local workers as possible from the occupied countries and send them to work in Germany.

At a meeting between representatives of German economic organizations and the Serbian quisling administration, attended by the German special plenipotentiary for economy affairs, Franz Neuhausen, held in Belgrade on 2<sup>nd</sup> June 1941, the Germans demanded that 75,000 workers from Serbia be sent to work in Germany by the end of that year. By the end of 1941, 33,400 workers from Serbia were employed as forced laborers in Germany, by the middle of 1942 that number had risen to 50,000, and by February 1943, 60,000 mostly young and able-bodied workers from Serbia were working in Germany.

According to the data which the Yugoslavian War Damage Commission gathered after the war, at the end of 1943 and the beginning of 1944, approximately 80,000 people from occupied Serbia were used in forced labor in Germany while, according to the estimations of one of the most significant researchers of Nedic's quisling administration in occupied Serbia, Dr. Milan Borkovic, around 100,000 laborers and 200,000 prisoners of war from Serbia were located in Germany during the Second World War.<sup>28</sup>

The latest research carried out by Barbara N. Wiesinger claims that 161,000 'foreign laborers' were recruited from the occupied zone of Serbia for forced labor in Germany, out of whom many were political prisoners or inmates.<sup>29</sup>

As we previously mentioned, Nedic's quisling press and propaganda in occupied Serbia were actively engaged in promoting the departure of workers from Serbia to Germany. In addition to the German occupying administration in Serbia and Nedic's quisling administration, work in Germany was also

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<sup>26</sup> Borković, *Kontrarevolucija u Srbiji*, knji. 2, 48.

<sup>27</sup> Borković, *Kontrarevolucija u Srbiji*, knji. 2, 49-53.

<sup>28</sup> Borković, *Kontrarevolucija u Srbiji*, knji. 2, 62.

<sup>29</sup> Barbara N. Wiesinger, *If you lose your freedom, you lose everything. The Experience and Memories of Serbian Forced Labourers: Hitler's Slaves – life stories of forced labourers in Nazi-Occupied Europe* (New York: Berghahn Books, 2010), 166.



advocated by representatives of the JUGORAS (Yugoslav Workers' Federation which was a pre-war regime and police organization.

Radio Belgrade and quisling newspapers *Novo Vreme*, *Obrnova*, *Nasa Borba* and others reported daily about the allegedly good wages, food, and accommodation for workers in Germany as well as that anybody who went there would be able to learn something. It was particularly emphasized that foreign workers enjoyed the same rights as Germans.

However, living conditions for workers from Serbia in forced labor in Germany were very hard in spite of the 'contract on employment' based on the general contract from 1<sup>st</sup> April 1941, pursuant to which workers from Serbia would work in Germany under the same conditions as German laborers.

Workers from occupied Serbia in Germany worked for much longer than the 48 hours per week regulated by that contract, particularly those who worked on agricultural land.<sup>30</sup>

We have already pointed out that on the basis of the ILO's findings, the 'employment contracts' which foreign laborers had in the German Reich were basically fictitious because they worked longer hours and were paid less than German workers, particularly the so-called 'eastern laborers'. Moreover, they did not enjoy even the most fundamental human rights and civil liberties.

Foreign workers in the German Reich, the same as Germans, had to pay pension and health insurance contributions, but rarely exercised their rights based on them. Foreign workers who fell ill would be returned to their homelands without treatment.<sup>31</sup>

In practice, adult laborers worked 10 hours a day and were paid 0.51 marks per hour and that figure remained unchanged until 1944.

The logistics of soliciting workers for Germany was the task of the bodies of the Public Employment Service, under the supervision and instructions of the German occupying administration.

In the Public Employment Service in Belgrade, it was the sole task of three clerks to recruit workers for Germany. In the branch in Nis, as many as seven clerks were involved in this process, while in the branches in Kragujevac, Kraljevo and Cacak there were two clerks and in Krusevac, Paracin and Sabac one.

The heads of local Employment Service branches had to report twice weekly to the local German command and relevant bodies for the recruitment of foreign manpower so as to provide updates on their work and obtain instructions for further work.

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<sup>30</sup> Milan Borković, *Kontrarevolucija u Srbiji Kvislinška uprava u Srbiji 1942-1943*. knjiga 2 (Beograd: "Sloboda", 1979), 64.

<sup>31</sup> *The Exploitation*, 107-134, 153-156, 208-237.

Initially, the decision to work in Germany was a voluntary one. It was mainly members of the German national minority from Banat and Serbia and Russian emigrants who opted to work to Germany. However, this voluntarism was just a sham. A large number of people signed up for work in Germany in fear of arrests and of mass shootings which were a form of German retaliation for any German soldiers killed in occupied Serbia, or as a way of avoiding forced mobilization in Chetnik formations. In addition, as already discussed, the economic and living situation in occupied Serbia was extremely bad.

Thus, the majority of people signed up for work in Germany during the period marked by the ruthless extermination of Jews and Roma in occupied Serbia, as well as the massive executions of citizens as retaliation for the deaths or wounding of Germans (Kraljevo, Kragujevac, Sabac) and the suppression of the Partisan uprising in western Serbia. "... our workers, in order to save their own skins, started to sign up for work in Germany en masse."<sup>32</sup>

In May 1943, an agreement was made between the German military administration and Nedic's quisling administration on the release of one prisoner of war from Serbia for each able-bodied worker sent to Germany to work. Prisoners of war who were sent home were old officers or those who had contracted tuberculosis.<sup>33</sup>

The logistics of recruiting, assembling and sending workers for compulsory labor in Serbia were carried out by the bodies of the Public Employment Service, which was the official employment institution. However, as Dr. Milica Milenkovic established, the entire archives of the compulsory labor service were destroyed,<sup>34</sup> making it difficult to establish the scope and level of exploitation to which workers were exposed during compulsory labor in Serbia.

During the war several directives and provisions were adopted pertaining to the mobilization of manpower on the territory of occupied Serbia, thus enabling the occupier to secure the necessary manpower through the quisling administration. By the directive on compulsory labor and the restriction of freedom of employment from 14<sup>th</sup> December 1941, the Interior Minister was authorized to order that "all citizens between the ages of 17 and 45, regardless of their being unemployed, employed or self-employed, could be called to

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<sup>32</sup> Dr Milica Milenković i dr Toma Milenković, *Zapošljavanje u Srbiji od početka do oslobođenja zemlje 1944*. (Beograd: Republički zavod za tržište rada, 2002), 307, 308.

<sup>33</sup> Jozo Tomasevich, *War and Revolution in Yugoslavia, 1941-1945. Occupation and Collaboration* (Stanford: Stanford University Press, 2001), 656.

<sup>34</sup> Dr Milica Milenković, Dr Toma Milenković, *Zapošljavanje u Srbiji od početka do oslobođenja zemlje 1944*. (Beograd, Republički zavod za tržište rada, 2002), 307.

work in certain factories or other branches of the economy (compulsory labor)”.<sup>35</sup>

Hence, Nedic's quisling administration in occupied Serbia, just like the Independent State of Croatia and fascist Hungary, established compulsory labor and labor service.

With the directive on introducing National Labor Service for the Renewal of Serbia, adopted on 16<sup>th</sup> December 1941, forced labor was legitimized as a civil obligation for Serbia's renewal and, pursuant to the directive on compulsory labor and the restriction of freedom of employment, manual workers in coal mines could not be dismissed from work from 20<sup>th</sup> December 1941 onwards. Since the beginning of the occupation, there had been a shortage of qualified workers in the mines.

On March 20<sup>th</sup> 1943 the Military Commander in Serbia issued the directive on the introduction of wartime economic measures in Serbia which were in effect in Germany. Pursuant to this directive, the special plenipotentiary for economic affairs in Serbia could declare any Serbian citizen obliged to work, including work in Germany, which was a violation of international law.

This was the German occupying administration's first legal provision which enabled the introduction of compulsory work for local laborers in Germany. On the basis of this provision, the special plenipotentiary for economic affairs in Serbia issued the order regulating the recruitment of Germans from the Reich and Volksdeutsche who lived in the Banat region in Serbia, for work in Germany. At the beginning of August 1943, the German special plenipotentiary for economic affairs in Serbia, Franz Neuhausen, ordered the Belgrade Employment Service and its branches to set up detailed records of the entire able-bodied workforce in Serbia.<sup>36</sup>

On his appointment as the president of the so-called 'Serbian Government', Milan Nedic had already announced the introduction of compulsory labor in the declaration from 2<sup>nd</sup> September 1941. Thus, the first directive on compulsory labor for which workers received some form of compensation was adopted in occupied Serbia at the end of 1941, but it was to be amended and changed on several occasions before 1944. At first, compulsory labor encompassed only males deemed fit for work aged between 17 and 45, but this age limit was subsequently increased to 55 years of age. Compulsory labor was done outside the place of residence and was legally supposed to last for four to six months per year, but in practice it lasted for much longer periods. Workers often did compulsory labor for an entire year.

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<sup>35</sup> Order of the President of the Serbian Government, Milan Nedic, on the introduction of compulsory labor, IAZA-OB, I, 17/1.

<sup>36</sup> M. Milenković, T. Milenković, *Zaposljavanje u Srbiji*, 320, 315, 324.

The directive on compulsory labor also restricted freedom of employment. This was followed by the adoption of more directives on compulsory labor and restricted freedom of employment for manual workers in paper production companies and the mining and smelting industries as well as the obligatory registration of bricklayers and carpenters. The Interior Minister had the highest authority in the implementation of compulsory labor. He could order all people aged between 17 and 45 to do compulsory labor regardless of whether or not they were already employed. The decree on compulsory labor banned miners and workers in the smelting industry from leaving their jobs.

“In the aforementioned directives and many other documents, and in newspaper reports in particular, mention was made of “state interests”, “the renewal of the country”, “the prosperity of the nation” and such like. However, none of this was true, and everything was related to the interests of the Third Reich and the direct pressure exerted by the occupier to realize such interests. The Germans’ only concern was to ensure that as many foreign workers as possible be sent to Germany for engagement in their war machine as well as to provide sufficient manpower for the companies in occupied and satellite states which were working for them. Flaunting the aforementioned phrases was only a means of deceiving the naïve. ‘Compulsory’ labor was nothing but an initially softer form of forced labor, and later blatant forced labor.” (Underlined by M.O.).<sup>37</sup>

During the occupation of Serbia most of the workforce was sent to the copper mine in Bor as well as the Trepča, Mackatica, Zajaca, and Kostolac mines and other mines and factories which were of special importance for the German occupiers’ needs.

Forced labor was implemented in the wider area of eastern Serbia, in the Bor and Timocki mining basins. During World War II, copper ore and coal were exploited in occupied Serbia, and the most important metallurgy factories were under the management of the German Bor- Kupferbergwerk plant and several other smaller mining companies.

The international labor camp, Borski Rudnik, was a type of prison set up by the German occupying forces in Serbia during the Second World War for political opponents, members of certain ethnic and religious groups and civilians from Serbia and enslaved Europe, who were put to work in copper mining, which was a strategic resource for the Third Reich. This camp was under German control and 50% of Germany’s needs for this metal were supplied from this mine.

During 1942, seven barracks were built at the labor camp in Bor so as to house the influx of manpower deployed for compulsory labor. The living conditions

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<sup>37</sup> M. Milenković, T. Milenković, *Zapošljavanje u Srbiji* 318

were dire, and the lack of drinking water and hygiene posed a particular problem for the occupants.

The biggest mobilization of compulsory labor in occupied Serbia took place in 1943. At the beginning of that year, the German occupying administration ordered a census of people who were to spend four months working in Serbia on Organisation Todt's big construction sites. Starting from March until the end of August 1943, contingents of between 800 and 1,000 people were sent from Belgrade to Bor, where they were deployed at construction sites between Petrovac na Mlavi and Bor.

According to the testimony of forced laborers from Belgrade who worked in Bor, even though the working day was very long (from 6.00 until 12.00 and from 13.30 until 18.00) workers were provided with very little food, clothing or footwear. The food was of poor quality and insufficient. The workers were literally starving; they were naked and barefoot, and physically mistreated. The weekly wage was 273 dinars after deductions for food and Sunday was the only day off.

"The camp barracks have three rows of four-tiered bunk beds, divided into 33 boxes. Twelve people sleep in each box, i.e. four people one above the other, and there are 396 of us in the barrack. The height distance between two beds is 1.10 meters. The bed is simple: one blanket and a straw mattress 1.75 x 0.75 meters in size, with a bit of straw which has turned into chaff and a nest of fleas, where we will spend a hundred and two nights."

Not only were the housing conditions appalling, but the diet and hygiene too. A worker's daily ration consisted of: "800 grams of wheat-corn bread, half a liter of barley 'coffee' for breakfast, and for lunch and dinner a liter of slightly flavored broth with a few slices of carrots, leaks and potatoes, or a dozen beans and tomato skins. Only on Sundays was there a morsel of mutton in that broth. The energy value of our daily meals did not exceed 2,000 calories, even though our physical work demanded 3,500 calories. [...] We are dirty and full of fleas... People rarely have a shave. There isn't enough water for drinking, let alone for personal hygiene."<sup>38</sup>

Those who were deployed for forced labor in the Borski Rudnik labor camp included citizens of Serbia on compulsory labor service, inmates, Jews and Roma, 400,000 refugees from various parts of Yugoslavia, Russian and Polish prisoners of war, members of the national-liberation movement of Yugoslavia as well as between 5,000 and 6,000 Italian military internees.

Undoubtedly, the position of so-called "working Jews" from Hungary was the worst; they were barbarically exploited, starved, physically abused and tortured.

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<sup>38</sup> Dušan S. Krivokapić, *Sećanja iz Nižiderskog lagera 1914-1918 .godine. Beleške sa prisilnog rad au logorima Bora 1943. godine* (Mataruška Banja, 1976), 80, 91-93.

There are numerous records about their suffering, but the most distressing are certainly those written by Gerge Istvan, *Na Smrt Osudjeni* (Sentenced to Death), which was published in the *Razvitak* magazine no.4-5 in 1973, and *Zlocini okupatora nad Jevrejima* (Occupiers' Crimes against Jews) published in the *Novi Istok* magazine in 1954.

According to Sigetvari Miklos, there were 20,000 forced laborers in the Borski Rudnik labor camp during the war. Out of that number, approximately 6,200 were Jews on 'labor service', as the Germans used to refer to it, 5,000 Jews from Hungary, 600 Zakarpattian Ukrainians, 600 Jews from Backa, and 300 Nazarenes, Adventists, Jehovah's Witnesses and members of other Christian sects.

For the deportation of Jews, on the basis of the Hungarian-German Agreement, Hungary received a certain quantity of ore concentrate for each forced laborer. To be more precise, two kilograms of chrome or eighty kilograms of old iron was given per man. However, Horthy's Government had to compensate the Germans for the costs involved in the upkeep of 'working Jews'.

Jewish camp inmates were guarded by Hungarian soldiers, and their supervisors were members of the Todt Organisation, very young Germans between 16 and 18 years of age from Backa, who treated these 'slaves' with extreme hatred and brutality.

The battalion commanders were mainly mobilized retired teachers or public clerks from Hungary. They humiliated the forced laborers in various ways and often beat them to unconsciousness and forced them to jump like frogs and do somersaults for 45 minutes at a time.

Jewish forced laborers in the Bor Basin often had their shoes confiscated to prevent them from escaping, and they would therefore tie planks to their feet so that they could work in the quarries.

"The daily diet of forced laborers consisted of: a watered down coffee substitute every morning, barley broth for lunch and dinner four times a week, and boiled cabbage, tinned peas, beans and dry pasta for the remaining days. Whole-wheat flour, lard and oil were not used. On Sundays, 'holiday goulash' was made of rotten potatoes and meat scraps. The bread ration was half a kilogram for two days, German brown bread which was as hard as brick and often moldy". Jewish forced laborers suffered chronic starvation.

Local citizens helped the Jewish forced laborers by leaving them food in baskets next to the graveyard which they passed on their way to work.

"Because of vitamin deficiency, many of them had boils on their necks and later all over their bodies, [...], Their feet were always covered in cuts from walking over sharp stones [...]. Many of them had chronic diarrhoea [...].

After years of slavery, those people became so crude and coarse that they often argued and fought for the slightest reason. Such behavior is explained by hard labor, the cruelty of the guards and labor camp psychosis.”<sup>39</sup>

Even the reports in Nedic's Labor Ministry emphasized that the laborers in the Bor Mine were naked and barefoot, housed in barracks with no windows or doors, without heating, and that the German occupying administration treated them brutally, calling them Serbian pigs, Belgrade gypsies, often beating them in public.

In one letter, Nedic himself admitted that ‘the laborers there are exposed to terrible exploitation and physical torture, and are naked and barefoot. The hygiene conditions were below any norms ...’.

According to the testimony of Tanasije Dinic, the Interior Minister in Nedic's Quisling administration in 1943, compulsory and forced labor was introduced in Serbia at the Germans' demand. “However, it was carried out arbitrarily, according to personal whims and moods, and therefore those who did not have any means of paying for their ransom were deployed for forced labor. In addition, while there, they were not provided with even the most basic living and sanitary conditions. People remained in the Bor Mine and other German companies regardless of the time period they were sent for, poorly fed, with no clothing and footwear, without any sanitation conditions. And those who were there on forced labor were treated like wild animals.”<sup>40</sup>

Until June 1943, 22,790 laborers from Serbia worked in the Bor Mine: 13,874 for the Todt Organisation and 8,944 miners in the mine itself. If the workers from the Bor labor camp are also taken into consideration, the number of employees in the Bor Mine reaches the figure of 30,000 people.

In Trepca, Zletovo and other surrounding mines, an average of 4,500 workers were engaged in 1941, 6,000 in 1942, 6,500 in 1943 and 5,000 in 1944 until the liberation.

In sixty-one coal mines on the territory of Serbia, 14,028 workers were engaged in February 1943, out of whom 9,047 were pit miners, and 4,981 workers on the mine surface. In the same period, 4,770 workers were engaged in the Kostolac mine.<sup>41</sup>

In order to increase productivity and discipline in the Bor Mine, in summer 1943, on Hitler's orders, the Germans brought a battalion of 1,000 German soldiers-miners from the Reich. They also started to bring forced laborers to the Bor Mine from occupied territories or those of their military allies. In

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<sup>39</sup> Sigetvari Mikloš, *Sećanje jednog Borskog prinudnog radnika: Zbornik radova Muzeja rudarstva i metalurgije Bor* Knj.V-Vi, 1989-1990 ( Bor: Muzej rudarstva i metalurgije Bor, 1990), 223,224,226

<sup>40</sup> Milan Borković, *Kontrarevolucija u Srbiji Kvislinška uprava u Srbiji 1942-1943*. knjiga 2 (Beograd: “Sloboda”, 1979), 68.

<sup>41</sup> Milan Borković, *Kontrarevolucija u Srbiji*, knj.2., 66.

summer 1943 1,200 Jews were deployed from Hungary, followed by workers from Poland and Bulgaria and captured Greek partisans. In March 1944, Italian prisoners of war were also deployed, followed by a further 5,000 Jews from Hungary.<sup>42</sup>

From the saved documents from the German Bor Kupferbergwerk, it can be seen that from the beginning until the end of the war, approximately 23,000 people were engaged daily at this company's various sites and factories, on the occupiers' demand and though the implementation of force.

Only a small part (around 7,000 people in Bor, Majdanpek and Kostolac and around 1,500 people in the Timok coal mines) had the status of 'voluntary' workers. However, in 1941 they too were returned to work in accordance with directives and other regulations issued by the German military command. The majority of such 'voluntary' workers were conscripts from the former Yugoslavian Army, who were released from German captivity on condition that they return to their previous jobs.

The differences between 'voluntary' and 'compulsory' forced laborers in terms of their position and obligations were very small. This became increasingly obvious in situations when the occupier made attempts, by means of force and terror, to improve workers' 'discipline' and increase production in companies.

According to Dr. Tomislav Pajić's research, because of the high turnover of workers, around 100,000 people passed through the Bor and Timok mining basins.

Based on documentation, it was established that between 1941 and 1944, 11,953 tons of blister-copper, 14,268 tons of electrolytic copper, 6,375 tons of copper stone, 571.5 tons of cement sludge, 5,340 tons of copper concentrate and 59,179 tons of pyrite concentrate were sent from Bor to Germany.<sup>43</sup>

Nedic's entire apparatus was involved in the policy of the "total mobilization" of manpower in occupied Serbia at the beginning of 1943.

Various forms of pressure and repression were used in order to force people to fulfill their compulsory labor obligations. The authorities worked against people who did not have confirmation of their regulated labor obligations, and they were unable to get travel permits, food rations for flour and other foodstuffs, or even tobacco. Compulsory labor rapidly turned into forced labor.

In the recruitment process for the essential manpower for certain companies and mines, the central quisling authorities ordered regional bodies to provide

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<sup>42</sup> Jozo Tomasevich, *War and Revolution in Yugoslavia, 1941-1945. Occupation and Collaboration* (Stanford: Stanford University Press, 2001), 657.

<sup>43</sup> Dr Tomislav Pajić, *Prinudni rad i otpor u logorima Borskog rudnika 1941-1944*. (Beograd: Institut za savremenu istoriju, 1989), 286, 288.



established quotas of able-bodied working males each month and to send them to work. These regional bodies passed on those obligations to districts, and in turn to municipalities, towns and villages. The Kragujevac municipality, for instance, was supposed to provide 5,000 workers in January 1943. When the authorities failed to gather this number of workers, in February, during night raids, a manhunt was launched and in that way 800 people were caught and sent to the Bor Mine.<sup>44</sup>

Since the working conditions in the mines were very hard, workers often fled their workplaces. Consequently, at the beginning of April 1943 the German plenipotentiary general for economic affairs in Serbia issued a warning to all mine managements that workers were strictly forbidden to leave their posts. Those who fled compulsory labor would be arrested and sent to concentration camps.

For this reason, the Ministry of the Economy requested support from the Interior Ministry in order to prevent workers escaping from the mines. Mine managers received a memorandum demanding the strictest sanctions against all laborers who left their workplace for any reason. Any such worker, pursuant to the regulations on compulsory labor, would be punished with a period of one year's forced labor and sent to the forced labor camp in Bor.

Considering that around 80,000 people were engaged in compulsory labor in occupied Serbia for each war year, it is certain that the pressure exerted by Nedic's police on the citizens of Serbia to respond to calls for compulsory labor and to stay there as long as demanded was indeed great.

Due to the unbearable working conditions, workers fled from compulsory labor en masse, particularly in the Bor Mine. In less than nine months in 1943, 12,019 workers escaped from the Bor Mine.

Nedic's police chased down runaway workers, arrested them and returned them to forced labor, or alternately they would arrest an adult member of the runaway's household, keeping such persons in prison until the absconder had returned to work.<sup>45</sup>

Over 2,500 Jewish forced laborers were killed during the war in Serbia in various camps and prisons. During their attempts at escape, a large number of other workers from Yugoslavia and other European countries under German occupation were also killed.<sup>46</sup>

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<sup>44</sup> Dr Milica Milenković i Dr Toma Milenković, *Zapošljavanje u Srbiji od začetka do oslobođenja zemlje 1944*. (Beograd: Republički zavod za tržište rada, 2002), 321.

<sup>45</sup> Milan Borković, *Kontrarevolucija u Srbiji Kvislinška uprava u Srbiji 1942-1943*. knjiga 2 (Beograd: "Sloboda", 1979), 66, 67, 70.

<sup>46</sup> Dr Tomislav Pajić, *Prinudni rad i otpor u logorima Borskog rudnika 1941-1944*. (Beograd: Institut za savremenu istoriju, 1989), 287.

At the end of 1943, around 40,000 laborers were working in occupied Serbia in companies which were producing for Germany. However, more than half had left their workplaces before the end of their mandatory period of forced labor. Out of 17,000 deserters, only 1,000 were caught and sent back to forced labor. The agreement made with the Germans from December 1943 obliged certain Chetnik commanders in Serbia (Ljub Jovanovic-Patak and Mihajlo Cacic) to catch and bring back runaway workers to the mines and factories on the territories they controlled, even if those laborers had joined their own units.<sup>47</sup> At the beginning of 1944, following a directive from the German Supreme Command in Belgrade and Nedic's administration, the forced mobilization of female manpower was carried out for work in factories which was of special importance for the German occupying administration. After the bombing of Belgrade on 16<sup>th</sup> and 17<sup>th</sup> April 1944 by Anglo-American air forces, women were regularly mobilized to clear up parts of the city and other areas destroyed by the bombs.<sup>48</sup>

*f) Forced Labour and International and Comparative Labour Law*

In legal terminology forced labour is a measure according to which one or more persons, or an entire category of people are sent to do forced labour for a specific time or to a specific place under threat of sanctions if they fail to respond.

The rise of fascism in Europe, as an ideology and political practice, was accompanied by a degradation of labour legislation and the implementation of a forced labour system on a massive scale.

The Forced Labour Convention was adopted at the International Labour Organisation General Conference on 28<sup>th</sup> June 1930, which then went into effect on 1<sup>st</sup> May 1932. The Kingdom of Yugoslavia, which was a member of the International Labour Organisation, ratified this convention and, for that purpose, passed the Law on the Project of the Convention on Forced or Compulsory Labour on 19<sup>th</sup> October 1932.<sup>49</sup>

Under the Forced Labour Convention, number 29, the term forced or compulsory labour referred to any work or service exacted from persons under threat of penalty and for which the said persons had not offered themselves voluntarily (Article, 2 paragraph 1).

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<sup>47</sup> Jozo Tomasevich, *War and Revolution in Yugoslavia, 1941-1945. Occupation and Collaboration* (Stanford: Stanford University Press, 2001), 656, 655.

<sup>48</sup> Milan Borković, *Kontrarevolucija u Srbiji Kvislinška uprava u Srbiji 1942-1943. knjiga 2* (Beograd: "Sloboda", 1979), 70.

<sup>49</sup> Official Gazette of the Kingdom of Yugoslavia, 22<sup>nd</sup> December 1932, no. 297CXI/I.

In addition to the definition of forced or compulsory labour and its elements, the convention also set its abolishment within the shortest possible time period as a rule.

Pursuant to this convention, forced labour did not include the participation in public works which formed part of the normal civic obligations of the citizens of a self-governing country.

It should be emphasised that, at the time of the adoption of this convention, the International Labour Bureau in Geneva considered that this would apply only to those countries with colonies, i.e. in the international community there was no anticipation of the introduction of forced labour in Europe, which occurred during the Second World War.<sup>50</sup>

The beginning of the Second World War did not only result in the full disintegration of the Kingdom of Yugoslavia, as we saw in the previous part, but also the full suspension of its legal system, including the labour legislature in all annexed and occupied parts where forced labour was implemented.

The basis of the legislature of the Kingdom of Yugoslavia was the Law on the Protection of Labourers from 1922, which guaranteed freedom of work, the regulation of labour relations by contract, labour institutions etc. This law guaranteed an eight hour working day, predicted the regulation of labour relations by means of individual and collective contracts as well as the establishment of labour chambers as the class representatives of labourers whose duty it was to protect the economic, social and cultural interests of labourers and employees. For the sake of regulating the job market, this law predicted the founding of labour exchanges (Article 70).<sup>51</sup>

In the occupied parts of Serbia in which Milan Nedic's quisling administration was established, all the elements of this law were suspended and forced and compulsory labour was introduced by means of a series of regulations.

In its statement the Democratic Federal Yugoslavia (DFY) state commission for establishing crimes committed by the occupiers and their collaborators in the Second World War, which was founded in February 1945<sup>52</sup>, on the basis of the Law on Criminal Acts Against the People and the State adopted on 25<sup>th</sup> August 1945<sup>53</sup>, established and described the forms of the implementation of forced labour in the Independent State of Croatia (NDH), 'Nedic's Serbia and Backa and Baranja in which Hungary imposed a slave labour service.

In Article 10 of the aforementioned law, forced labour imposed by the occupiers and quisling structures was defined as a war crime. "Any person

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<sup>50</sup> "G. Albert Toma's reply to his critics – a letter to Pravda", Pravda, 7<sup>th</sup> March 1930.

<sup>51</sup> This Law was passed on 8<sup>th</sup> February 1922, The Official Gazette of the Kingdom of Serbs, Croats and Slovenians, no. 128 from 14<sup>th</sup> June 1922.

<sup>52</sup> Official Gazette no.1 from 1<sup>st</sup> February 1945.

<sup>53</sup> Official Gazette of FNRJ, no.66 from 1<sup>st</sup> September 1945.

who, during the war, cooperates economically with the enemy and occupier, i.e. who places their industrial, trade, transport or other companies and expertise at the disposal of the enemy for the aim of production or themselves produce products which strengthen the production power and war potentials of the enemy, or whose cooperation with the enemy comprises particularly harsh forms of exploitation and pressure on labourers with the help of the occupying administration will be punished by arrest and a period of 10 years forced labour and the confiscation of their property”.

In international law “deportation for forced labour” was established as a war crime by Law number 10 for punishing persons responsible for war crimes, and crimes against peace and humanity which was adopted by the Alliance country members in the Second World War as the unique legal grounds for the trial of war criminals and other perpetrators in Germany, and on the basis of the Moscow Declaration from 30<sup>th</sup> October 1943 “regarding the responsibility of Hitler’s supporters for atrocities committed” and the London Agreement from 8<sup>th</sup> August 1945 “pertaining to the prosecution and punishment of the main war criminals from the European Axis Powers”, which were an integral part of this law.<sup>54</sup>

The same as in the case of Yugoslavian law, the punishment prescribed for crimes against peace, war crimes and crimes against humanity included the death penalty, imprisonment, forced labour, the confiscation of property, the return of illegally acquired property, and the withdrawal of certain or all civil rights.

According to the Democratic Federal Yugoslavia (DFJ) state commission for establishing crimes committed by the occupiers and their collaborators, prisoners from the Sajmiste Camp in Belgrade were taken to Germany for forced labour. Approximately 3,500 prisoners from this camp were isolated and accommodated in the concentration camp for forced labourers, the so-called TOT Organisation Camp which was just opposite the Sajmiste Camp. This camp had its separate administration and was under the command of the Schmiots. The prisoners from that camp were sent to Germany and Norway for forced labour.

“Their pursuit was particularly aggressive in Srem. The citizens who were captured were usually sent to Ruma to the notorious Bauer camp. There, everybody had to declare whether they would go to work in Germany or otherwise be detained in the Sajmiste Camp. Under threat of being beaten, and often just to avoid the fate which awaited them in Sajmiste, many prisoners

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<sup>54</sup> Miodrag Zečević, Jovan P. Popović, *Documents from the history of Yugoslavia. The state commission for establishing crimes committed by the occupiers and their collaborators in the Second World War*, (Belgrade: Archives of Yugoslavia, 1996.), 474.

agreed to go to work. Most of them, however, as the first stage, had to go through Sajmiste. After undergoing the torment inflicted in this camp, if there were not killed, they were sent to work.

... From the statement made by Branko Radanovic from the village Batajnica, we can see that out of 460 people who were sent to work on 1<sup>st</sup> September 1943, 350 people died shortly afterwards and the rest, around 100, became seriously ill.”<sup>55</sup>

Both men and women were sent to forced labour from the Sajmiste Camp.

The Democratic Federal Yugoslavia (DFJ) state commission for establishing crimes committed by the occupiers and their collaborators established that the Hungarian occupiers sent 26,671 people from the territory of Yugoslavia to forced labour.<sup>56</sup>

### Conclusion

During the Second World War the labor market in Serbia was replaced with forced mobilization, and instead of hired labor, a system of forced labor and a managed economy was introduced. The forced exploitation of manpower was an integral part of Germany's occupation of Serbia.

The apparatus of Nedic's quisling administration in occupied Serbia was included in the policy of the 'total mobilization' of manpower for the German war economy with the goal of contributing to the Nazi war effort. His administration was a direct participant in the implementation of the measures enforced by Germany's occupation system in Serbia during the Second World War, including those which referred to forced labor.

This refers to both the coercion of manpower for work in Germany as well as the recruitment of the population of occupied Serbia for compulsory and forced labor.

Hence, Nedic's quisling administration, as a collaborator of the German occupying administration and its bodies in Serbia, committed the war crime of the forced mobilization and exploitation of the occupied population, political opponents and prisoners of war, i.e. the manpower of the occupied population for its engagement in the German war economy on the territory of the Reich as well as on the territory of occupied Serbia. Such practice was banned by the international laws of war.

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<sup>55</sup> The Democratic Federal Yugoslavia State Commission for establishing crimes committed by the occupiers and their collaborators, Statement no. *66-93*, About crimes committed by the occupiers and their collaborators, (Belgrade 1945.), 797, 798.

<sup>56</sup> The same, 821.

During the Second World War, around 300,000 workers from Yugoslavia were deployed to Germany for forced labor, out of whom approximately 100,000 were from Serbia, in addition to 200,000 prisoners of war. It has been calculated that around 80,000 workers were engaged in compulsory labor in Serbia for each year of the war. During the war, around 100,000 forced laborers from Yugoslavia, Greece, Czechoslovakia, Poland, the USSR, Hungary, Romania, Italy, Holland and France passed through the factories and worksites of the Bor copper mine and the Timok mining basin alone.

However, the majority of that manpower was gathered from Serbia on the basis of the directive on compulsory labor issued by Nedic's quisling administration in 1941. This was Germany's attempt to avoid the obligations from the international law banning the exploitation of civilian manpower on occupied territory and that was one of the main reasons for the establishment of the quisling administration in occupied Serbia. The purpose of this administration was in fact to implement the policies and measures established by the occupier.

Forced labor in Serbia was also used as penal measure for captured members of the national-liberation Partisan movement, as well as prisoners of war and Jews.

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# Decentralized Bargaining and Measures for Productivity and Occupational Welfare Growth in Italy. Empirical Evidence from Administrative Data

Massimo Resce and Achille Pierre Paliotta <sup>1</sup>

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**Abstract. Purpose** – The article aims to analyze measures to support labour productivity and occupational welfare in second-level bargaining in Italy.

**Design/methodology/approach** – Both a quantitative and qualitative approach has been employed.

**Findings** – After illustrating the incentive system activated by the Italian Government, the limits of the policy and some risks of polarization are highlighted.

**Research limitations/implications** – The current incentive system needs to be integrated with the other labour policies and with the economic development policies.

**Originality/value** – The paper is original in its policy dimension, as it builds on unique data on collective bargaining.

**Paper type** – Qualitative and analytical paper.

**Keywords** – *Decentralized bargaining; Collective bargaining; Performance-related pay; Occupational welfare; Labour productivity; Tax incentives.*

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<sup>1</sup> Massimo Resce (corresponding author. Email address: [m.resce@inapp.org](mailto:m.resce@inapp.org); § 1.1, 3.1, 3.2, 3.3, 3.4, Conclusions) and Achille Pierre Paliotta (Email address: [a.paliotta@inapp.org](mailto:a.paliotta@inapp.org); § Introduction, 1.2, 2.1, 2.2) are Researchers at Italy's National Institute for Public Policies Analysis (INAPP). The authors wish to thank the colleagues with whom they share the research work in INAPP on the same themes: Francesca Bergamante, Marco Centra, Francesco Manente, Manuel Marocco and Enrico Sestili who provided suggestions and useful contributions. This is an activity carried out under the National Operational Programme for the implementation of the European Social Fund (ESF) "SPAO". The INAPP cannot be held responsible for errors or any consequences arising from the use of information contained in this paper, the views and opinions expressed are solely those of the authors and do not necessarily reflect those of the Institute.



## 1. Introduction

From the post-war period to the 1970s, labour productivity in Italy developed more quickly than in other European countries. From the 1990s onwards, a decrease was reported as compared to other Member States. Moreover, since the introduction of the Euro, growth trends have showed little improvement. Economists have diverging views on the causes for this state of affairs. Many agree on the concurrence of multiple determinants. Some explanations do not consider wage trends, but sectoral dynamics and firm size. However, in the years immediately following the crisis, some European authorities – such as the European Central Bank (ECB) and the European Commission (Resce, 2016b; 2018) – launched a moral suasion for the adoption of flexibility measures/wage moderation with the aim of improving the ability of the economies of recovering from different negative shocks. According to their opinion, wages must adequately reflect labour market conditions and productivity increases. The evidence supporting this thesis refers to nominal rather than real dynamics, which instead show a moderate wage increase.

When considering the Italian two-level bargaining structure, this adjustment should occur with regard to decentralised or second-level bargaining. Nonetheless, this model presents issues. Italy is the Eurozone country with the highest share of salaried employment relationships governed by collective bargaining (ECB, 2017). Concurrently, second-level bargaining is far from widespread. Moreover, according to some experts, the bargaining model established with the Protocol of July 1993<sup>2</sup> has created a “perverse bond between wages and productivity”. In this sense, the restrictions provided for by the two bargaining levels have created a profit protection clause that does not encourage entrepreneurs to invest and innovate, causing a sort of productivity “non-development” (Tronti, 2009; 2010; 2014).

Therefore, the legislator provided a system of reforms and incentives – to be seen perhaps as a necessary choice – with the aim to foster labour productivity on the one hand, and fiscal and welfare measures on the other hand. This development was not pursued through structured policies, but with measures intended to favour performance-related pay<sup>3</sup> (PRP) in decentralised, second-level bargaining (Resce, 2018).

In order to understand the recent policies supporting labour productivity in Italy, it is necessary to begin from the characteristics of the Italian collective bargaining system (Bergamante & Marocco, 2017). In particular, the wage

<sup>2</sup> Interconfederal Protocol of 23 July 1993 on income and employment policy, contractual aspects, labour policies and support to the production system.

<sup>3</sup> “*premio di risultato*”.

bargaining mechanism introduced in 1993 replaced the previous system, based on the “wage indexation scale”. This Protocol, which is still in force, provides for two specific and distinct bargaining levels based on a form of advanced wage policy (threshold agreement).

The first level - the National Collective Bargaining Agreement (NCBA)<sup>4</sup> - sets (minimum) wages linked to planned inflation. The second level - which includes both firm-level and local-level bargaining – relates PRP negotiations to productivity, profitability and production quality. At this level, further elements that strengthen the link between the worker and the company can be negotiated, among others: welfare measures; company participation; profit-sharing formulas; benefits and work-life balance. This level is important because it determines the conditions for labour productivity growth.

It is worth specifying that firm-level bargaining consists of an agreement between a single employer and trade unions. Conversely, local-level bargaining is the result of an agreement at local level (e.g. regional, provincial, district level) between workers’ representatives and employers’ associations. The local level of bargaining is widespread only in certain economic sectors, (manufacturing, commerce, agriculture and construction).

According to the most recent comparative studies, two-thirds of OECD countries resort to collective bargaining mainly at firm level (single-employer bargaining), while the national/sectoral one (multi-employer bargaining) plays a significant role only in Continental Europe (OECD, 2017). The decentralization of collective bargaining is a consolidated and global trend, which began in the 1980s. It then intensified in the 1990s and further strengthened during the great recession due to the demise of central and sectoral bargaining in a number of countries, among which were Romania, Greece, Slovenia, Slovakia, Hungary, Israel, Portugal, Bulgaria, Ireland and Latvia (Visser, 2016:5).

Italy followed suit and ended up decentralizing the bargaining structure, although only in part (D’Amuri & Giorgiantonio, 2015), as the NCBA still plays a major role. The firm-level agreement (single-employer bargaining) is estimated to account for 10% of the total (Visser, 2016:11). This “compromise” between the two levels<sup>5</sup> - called “organized decentralization” (Traxler, 1995) - can also be seen if one looks at the membership of sectoral

<sup>4</sup> Contratto Collettivo Nazionale di Lavoro (CCNL).

<sup>5</sup> “As for the collective bargaining system, the 2014 agreement reasserts the centrality of the national agreement as the main tool to ensure the certainty of common terms and conditions of employment for all the workers of the sector. The possibility for the company agreement to derogate from the national level is provided for within the limits and the procedures set by the national collective agreements” (Pallini, 2106:7).

and corporate trade unions with national confederations (Ales & Senatori, 2015:2).

Moreover, between 2008 and 2018, the various Italian governments fostered, to a greater or lesser extent, the development of second-level decentralized bargaining, also encouraged by the ECB and the European Commission (Pallini, 2016:1). Over the years, there has been an acceleration of this process. Specifically: “due to various impulses and pressures, company level bargaining has certainly been boosted. This has been possible ‘qualitatively’, by (a) reducing some exclusive prerogatives of industry wide agreements, (b) weakening the role of external unions in coordination with and (c) expanding the possibility of opening clauses and concession bargaining. But in quantitative terms, it has not taken off” (Leonardi, Ambra & Ciarini, 2017:46).

With regard to welfare measures, from 2016 to 2018 the Italian government used a fiscal lever to disseminate tax incentives. Before the 2016 Stability Law (Law n. 208/2015), welfare measures were paid based on the employer’s voluntary or unilateral act. Instead, the 2016 Stability Law expressly allowed for the measures recognized by employers in compliance with the provisions of contract, agreement or corporate regulation (Treu, 2016). In this law, the scope and notion of ‘goods and services’ enjoying tax relief was clarified (thus recognizing services relating to the elderly or not self-sufficient family members).

In 2017, more goods and services were added to this category, as the tax regime was applied to welfare measures recognised by the employer in compliance with the provisions laid down in the NCBA, the inter-confederal agreement or the local-level collective agreement. The provision extended regulation to any level of the collective agreement, also in the public sector.

The 2016 Stability Law legitimizes “social benefits,” that is the possibility for workers to access welfare measures as a form of remuneration. Within the limits for accessing the 10% flat tax, employees may opt to transform the productivity bonus into welfare services, rather than monetary wages. This law also establishes that the basket of goods and services may be paid through vouchers, in paper or electronic format. This has fostered welfare measures also among those small enterprises that could not provide the services directly.

Another novelty introduced in 2016 was the collection of data for policy monitoring and evaluation purposes. The 2016 Stability Law provided for the monitoring of firm-level and local-level agreements. The inter-ministerial Decree of 25 March 2016 - signed by the Ministry of Labour and Social Policies (MLPS) and by the Ministry of Economy and Finance - reasserted that access to tax incentives was conditional on the on-line registration of the

collective agreement, to be carried out with the local Labour Inspectorate<sup>6</sup>. Moreover, in order to collect summarized data related to the agreements, the Decree made it mandatory to fill in a document called “compliance statement”<sup>7</sup>, supplementing the Decree. The procedure for the on-line registration was activated on 16 May 2016. On 22 July 2016, the MLPS provided operational indications issuing specific guidelines<sup>8</sup>.

In order to monitor the measure, the MLPS activated a Repository, which allowed collecting summarized data on the agreements. This work is based on the administrative data resulting from the applications submitted to access the specific tax bonuses on PRP introduced by the 2016 Stability Law.

The structure of the paper is as follows: the first paragraph illustrates the theoretical framework for productivity and welfare measures; the second paragraph focuses on supporting legislation and examines the first results concerning adherence to the incentive system through the two types of decentralized agreements (those concluded at firm and territorial level). The third paragraph provides details regarding the analyses carried out on company-level bargaining. Finally, some conclusions highlight the first assessments on the incentive system adopted by the government.

## 1. Theoretical Background

### 1.1. Labour Productivity in Negotiating Institutions

The tax bonus on PRP promoted by the Italian legislator involves different elements, all aimed at favoring business competitiveness, as long as they result in increases in productivity, profitability, quality, efficiency and innovation. Among them, the most important is undoubtedly the one related to productivity.

Among the various causes determining low levels of labour productivity in Italy, mention should be made of the effects of the institutions that regulate the labour market. An important part is played by the mechanism for wage negotiating introduced by the Protocol of 1993, which is currently in force, in

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<sup>6</sup> *Ispettorato Territoriale del Lavoro*.

<sup>7</sup> “*dichiarazione di conformità*”.

<sup>8</sup> Basically, in order to have access to tax incentives, employers were required: 1) to indicate the firm-level agreement entered into with trade unions or the local-level agreement that they wanted to implement; 2) to fill in the “compliance statement” specifying such aspects as: the number of applicants; the parameters for measuring the results expected in terms of productivity and competitiveness; the entity of the performance bonus; the possible membership with a category association.

that it envisages two specific negotiation levels that are not comparable between different institutions and cannot be replicated (Resce, 2018).

At the first level, the National Collective Bargaining Agreement (NCBA) operates and regulates remuneration in line with the planned inflation adopted as a common objective. At the second level, at which both the company-level and local-level agreements operate, the resulting salary is linked to increases in productivity, quality and other elements of competitiveness.

In addition to criticisms concerning the functioning of this second level of bargaining (Tronti, 2009 and 2010), one of the main problems is the low diffusion of second-level bargaining.<sup>9</sup> According to many, especially some European institutions,<sup>10</sup> this is a real obstacle to the mechanisms for adjusting wages to local conditions and to productivity growth.<sup>11</sup>

To better understand the link between productivity and wages and the role played by the 1993 Protocol on their dynamics it is useful to recall the productivity function of Sylos Labini (1984, 2004) as revisited by Tronti<sup>12</sup>, who dedicated a significant part of his studies to analyzing the impacts of the agreements between the Government and the social partners.

The productivity function identifies labour productivity as a fundamental variable of economic development and, unlike other elaborations, incorporates the role of distributive conflict under a unitary vision. The function indicates two fundamental determinants of productivity growth:

- a "Smith effect", which identifies the role of the market dimension in favoring the division and specialization of work and therefore of innovation;

<sup>9</sup> The lack of widespread adoption is confirmed by the various sample surveys, not least that reported in the "First report on second level bargaining" by the FDV - CGIL which refers to a 20% implementation level.

<sup>10</sup> See for example "Council Recommendation on Italy's National Reform Programme 2017 - COM (2017) 511 final" and "Council Recommendation on Italy's National Reform Programme 2018 - COM (2018) 411 final".

<sup>11</sup> This is an approach that aims to resolve the conditions of productivity growth from a micro point of view at the corporate level. According to this vision, capping wages in times of economic crisis, the LCUP (labour cost per unit of product) would be controlled, guaranteeing the company's own competitiveness and therefore adequate productivity. In reality, this approach caused strong criticism, especially among non-mainstream economists, who highlight that at the macroeconomic level, wage growth is also important in times of crisis in the economic cycle which, by supporting domestic demand, can guarantee the conditions for productivity growth (Resce, 2018).

<sup>12</sup> In the specific case, reference is made to research conducted by Tronti (2009; 2010) on the productivity function of Sylos Labini.

- a "Ricardo effect", which identifies the role of growth in the relative price of labour as a way to encourage companies to introduce new machinery, technologies and forms of organization.

Regarding the "Smith effect", the increase in labour productivity depends on the division of labour and professional specialization, two factors lying behind endogenous innovation, which rises depending on the extent of market increases. Product market liberalisation and increased competition lead companies to contain prices, stimulate innovation and encourage productivity growth, ensuring the preservation of competitive positions.

Labour market reforms aim to moderate the growth in labour costs and therefore in wages. The balance between these two dynamics is stricken by productivity growth, if any. Wage moderation must not be brought to the point of being counterproductive. It must ensure the purchasing power of wages, thereby supporting domestic demand<sup>13</sup>. The containment of prices on the one hand and the guarantee of purchasing power on the other become crucial to ensure the stable growth of the economy, which is characterized by competitiveness on foreign markets and by the support for domestic demand. The mainstream models of the liberal type mainly consider the value of wages as a production cost<sup>14</sup>. Consequently, its moderation would imply low production costs, which would allow a containment of product prices, and hence greater market competitiveness. Yet wages feed the demand for goods and services<sup>15</sup>. To understand which effect prevails over the other, we need to ask ourselves if European economies are "wage-led" economies or "profit-led"/"export-led" economies. According to several studies, the negative impact of the fall in wages – in particular those regarded as a share of GDP – is greater the lower the openness of a country to foreign trade. Many empirical investigations on the Italian accumulation model confirm, at least in recent years, its nature as a wage-led economy and therefore the fact that it is guided by domestic demand (Canelli & Realfonzo, 2018). Therefore, the pursuit of the German model, which is based on wage moderation, has not had the same effects, since the Italian economy is structurally different.

As for the "Ricardo effect", productivity is linked to the growth of the relative price of labour as an endogenous factor, pushing companies to introduce new

<sup>13</sup> Tronti (2009): «Only the growth of wage purchasing power in the face of price containment ensures a virtuous relationship between the two markets, which allows the economy to grow steadily, driven both by foreign demand (for the channel of price moderation), how much from the domestic one (for the increase in the purchasing power of wages)».

<sup>14</sup> This is the main approach held by the European Central Bank in the post-crisis years.

<sup>15</sup> The possibility of this link is now recognized both by economists so-called "critics" (Letter of the economists-2010, Fitoussi and Stiglitz) and by exponents of the "mainstream" (Rogoff and Rajan) and by international institutions such as IMF and ILO.

production solutions. From this point of view, real wages must grow, not only because they are the basis of household consumption, but because their growth will stimulate companies to innovate in order to balance profit rates.

Yet the Protocol of 1993 sets remuneration levels as a consequence of productivity gains rather than considering them as basic elements for its growth. The formal analysis of the agreement, therefore, contradicts the productivity function, making the condition of invariance of labour and capital quotas in income (known as Bowley's law)<sup>16</sup> unlikely to take place. This law is important because it guarantees "balanced growth" (as defined by Kaldor) and represents a fundamental element for cooperation between the parties. It ensures conditions of economic growth enabling the maximum level of consumption without generating inflationary pressures on profits.

The main hypothesis formulated by Tronti (2010:8) to explain the fall in the relative price of labour is that the 1993 Protocol, due to the combined effect of the two negotiating levels, produces an invariance in functional income distribution, thus challenging Bowley's Law.

Proving this assumption has justified firms' little interest in the modernization of the productive system in these years, frustrating the attempt of the Government and the social partners to ask employers something in return to adjust functional income distribution (in terms of investments, training, organizational innovation, etc.).

In essence, at the first bargaining level wages are fixed with a downward rigidity and in the second level, due to the little diffusion of decentralized bargaining, productivity bonuses are not adequately distributed. This circumstance determines a countercyclical link between productivity growth and the share of labour in income. During the normal functioning of the economy reporting productivity growth, a compression of labour income is generated due to the fact that second-level bargaining is not available to all employees and/or is unable to match real wage growth with productivity growth. During stagnation, with little to no productivity growth, the functional distribution between labour quotas and profit shares in income is rebalanced thanks to the downward rigidity of real wages.

Therefore, in normal economic situations or during productivity growth, the extra profits accrued do not determine the condition of necessity for which companies are compelled to invest in reorganization. Furthermore, there is no opportunity for unions to negotiate remuneration for implicit company profits.

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<sup>16</sup> Tronti's demonstration (2010) of a fall in the relative price of labour is based on the application of a deterministic model of the functioning of the negotiating system, launched with the '93 Protocol, based on Bowley's law, which provides for the stability of the distributive shares of wages and of profits in income.

This way, economy stagnation is determined, this is why Tronti (2013:58) states that the contractual model introduced by the Protocol of 1993 establishes a "perverse bond between wages and productivity", which leads less dynamic companies into thinking that they are able to survive without investing in innovation. This agreement – but it was also the case with the following ones – failed to guarantee adequate wage increases, let alone productivity growth. The lesson to be learnt is that the institutions that regulate the labour market play a major role and can have a positive or negative impact on economic performance. This is the theoretical framework with respect to labour productivity in which government tax measures have been activated to benefit productivity bonuses, trying to affect the incremental wage while guaranteeing a wider implementation of decentralized bargaining.

### *1.2. The Gradual Institutional Shift towards the Commodification of Italian Welfare*

The legislative interventions promoting both business competitiveness and second-level bargaining through increasingly incentivizing the PRP correlated to occupational welfare attest to the crisis of public state welfare, which today has become economically unsustainable due to complex economic, technological, cultural and demographic factors. As has been authoritatively stated, “the real 'crisis' of contemporary welfare regimes lies in the disjuncture between the existing institutional configuration and exogenous change. Contemporary welfare states [...] have their origins in, and mirror, a society that no longer obtains” (Esping-Andersen, 1999:5).

In general, the pressures associated with exogenous change (due to globalization, recession, Europeanization, etc.) do not produce a single trajectory of change or common distributional pattern. In this perspective, to better analyze the gradual shift in welfare capitalism, it is important to place the Italian situation within today’s most widely-used framework, called *varieties of capitalism* (Hall & Soskice, 2001). This framework focuses on the different types of institutional arrangements and distinguishes between “coordinated market economies” and “liberal market economies”<sup>17</sup>. Previously, Titmuss (1958) had made a distinction between three models of welfare states: Residual or Public Assistance Model (Reagan USA; Thatcher GB); Industrial Achievement or

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<sup>17</sup> This approach has been criticized (Boyer, 2005; Schröder & Voelzkow, 2016) but for the purpose of this paper it holds its validity. Another well-known framework, the theory of regulation, includes four types of capitalism: market-oriented; meso-corporatist; statist; social-democratic (Boyer, 2005). For a institutionalist conception of regulatory space see Inversi, Buckley & Dundon (2017).



Reward Model (Scandinavian states); Institutional Redistributive Model (continental European countries such as Germany and Italy). Esping-Andersen has further developed and refined Titmuss' original typology, by identifying three types of welfare capitalism based on: liberal regimes (United States, Canada, Australia and United Kingdom); social democratic regimes (Sweden, Norway, Finland, Denmark); conservative-corporate regimes (France, Germany, Italy, Japan) (Esping-Andersen, 1990).

In these models, Italy is included within a coordinated and corporatist model (Tomassetti, 2017; Adapt, 2017) in which these countries are characterized by a "preservation of status differentials. Rights, therefore, were linked to class and status. This corporatism was subsumed under a state edifice perfectly ready to displace the market as a provider of welfare; hence, private insurance and occupational fringe benefits play a truly marginal role. On the other hand, the state's emphasis on upholding status differences means that its redistributive impact is negligible" (Esping-Andersen, 1990:27).

Over the past few decades, a constant process of liberalization, deregulation and reduction of social rights has affected coordinated and corporatist countries. There is no doubt that this change is toward a growing trend of "risk privatization" (Hacker, 2004) and market centrality. Some scholars have referred to the progressive convergence between the different models of capitalism and industrial relations, too (Vaughan-Whitehead & Vazquez-Alvarez, 2018) but there are multiple institutional forces that perpetuate the diversity of rich democratic countries. Depending on the social coalitions that are formed, countries follow one of three ideal-typical trajectories of liberalization in the sense of "the steady expansion of market relations in areas that under the postwar settlement of democratic capitalism were reserved to collective political decision-making. Although liberalization amounts to a quite fundamental transformation, it proceeds gradually and continuously" (Streeck & Thelen 2005:30). The three ideal-typical trajectories of liberalization are deregulation, dualization and socially-embedded flexibilization (Thelen, 2014). Italy is marked by dualization. Dualization, "does not involve a direct attack on institutions for collective regulation but transpires instead through the differential spread of market forces. Traditional arrangements for labour-market insiders are maintained even as an unorganized and unregulated periphery is allowed to grow that is characterized by inferior status and protections for labour-market outsiders" (Thelen, 2012:9).

In this institutional context, PRP measures were promoted that were linked to welfare initiatives. The goal was to delivery decentralized government-supported goods and services (via a voucher system) which places PRP under the direct management of workers, allowing them to determine which goods, and services they will buy from competing private suppliers. Market forces

emerge in this continuous process in the direction of what is called commodification, which can be seen in the health sector, among others (Paliotta, 2019).

Different terminology has been used in Italy to refer to the new ways these benefits are granted: corporate welfare, second welfare, contractual welfare, company-level welfare. However, we opted for the terms ‘fiscal and occupational welfare’, as they were those originally proposed by Titmuss in 1958. He classified welfare provisions into three types: social welfare, fiscal welfare and occupational welfare.

Social welfare consists of heterogeneous social services, from poor relief and sanitation to disability benefits and higher education. It will not be taken into consideration in this paper because it goes beyond the topic under evaluation.

As for ‘fiscal welfare’, it was used to indicate benefits available through tax systems. “Allowances and reliefs from income tax, though providing similar benefits and expressing a similar social purpose in the recognition of dependencies, are not, however, treated as social service expenditure. The first is a cash transaction; the second an accounting convenience. Despite this difference in administrative method, the tax saving that accrues to the individual is, in effect, a transfer payment” (Titmuss, 1958:44–45). Generally speaking, fiscal welfare is favourable tax treatment for particular types of activities or groups of taxpayers and “it can be obtained only by undertaking a specific role or behavior then it is not structural” (Wilkinson, 1986:27). It forms part of a hidden welfare state (Howard, 1997; Greve, 1994). These governmental measures, which change from year to year, have non-structural character. It has been compared with the liberal regime models, since fiscal incentives are used to support the purchase of welfare-related goods and services (Esping-Andersen, 1990; Hacker, 2002; Howard, 1997; Sinfield, 1978). The term ‘occupational welfare’ refers to all benefits provided by companies to their workers by virtue of an employment contract: “pensions for employees, wives and dependents; child allowances; death benefits; health and welfare services; personal expenses for travel; entertainment; dress and equipment; meal vouchers; motor cars and season tickets; residential accommodation; holiday expenses; children’s school fees; sickness benefits; medical expenses; education and training grants; cheap meals; unemployment benefit; medical bills and an incalculable variety of benefits in kind ranging from ‘obvious forms of realizable goods to the most intangible forms of amenity’” (Titmuss, 1958:51). Favorable tax treatment is therefore ensured along with occupational welfare. It can be argued that the former encourages the spread of the latter. Without fiscal welfare, occupational welfare would perhaps have retained the paternalistic character marking it in the nineteenth century. Today, a variety of goods and services are offered through digital platforms. What seems to

explain its steady diffusion is therefore the government's favourable fiscal policy. The recent development of occupational welfare in Italy is evidenced by substantial research on this topic (Senatori 2017; Ciarini & Lucciarini 2017).

In general, occupational welfare measures are looked at favourably because of workers' centrality from a corporate citizenship perspective (Macchioni, 2014). Those opposing these initiatives have pointed out that the progressive commodification of social benefits can slowly erode universal rights, due to all citizens (Pavolini, Ascoli & Mirabile, 2013).

Finally, collective bargaining is embedded in a national and industrial setting, as are political systems, labour market institutions and welfare systems. These complex factors are intertwined and characterized by remarkable interdependencies which face change under advanced capitalism. We must always frame these interdependencies in workplaces where there is a clear asymmetry of power between the two traditional logics (Offe & Wiesenhal, 1980): capital and labour, freedom and justice, efficiency and equity. In this regard, government regulation and labour unions have traditionally provided a set of checks and balances to compensate for unequal power relations. Recently, some scholars have added a third element, i.e. voice. Voice is "the ability to have meaningful employee input into decisions. This includes not only free speech, supported by protection against unfair dismissal and grievance procedures, but also direct and indirect participation in workplace decision making" (Budd, 2004:8). In many workplaces, voice functions alongside collective voice institutions with the presence of employee delegates and works councils (Marsden, 2013) which have been involved in the definition of decentralized agreements, of second-level bargaining.

## **2. Local-level Bargaining and Measures for Fiscal and Occupational Welfare**

### ***2.1. The Supporting Role of National Legislation in the Promotion of Second-level Bargaining***

Over the last ten years, the Italian government has promoted the second-level collective agreement through a number of legislative provisions, including varying degrees of tax benefit. An example of this was Legislative Decree No. 93/2008, which introduced an experimental tax incentive applied to PRP. This incentive was granted on an individual basis and was not necessarily related to the collective agreement. This measure concerned "money paid at corporate level" and involved "increases in productivity, innovation and organizational efficiency and other elements of competitiveness and profitability connected to the firm's economic trend", as well as overtime. Therefore, in this first phase,

the tax incentive was not connected to the collective agreement and concerned wage-related aspects. This initiative, which was in place until the end of 2010 - expressly aimed to “increase labour productivity.”

In 2011, the government decided to promote the second-level collective agreement. In this year the incentive was applied to a “productivity agreement” and implemented only in cases where amounts had been paid “in compliance with what provided for by the local-level or firm-level collective agreements or contracts.” In such context, PRP-related tax bonuses feature a broad definition: the tax deduction was applied to allocations “connected to higher productivity, quality, profitability, innovation, organizational efficiency linked to the results of the economic trend, the company’s profits, or any other element regarded as relevant for the improvement of corporate competitiveness” (Legislative Decree No. 78/2010). These parameters were not clearly defined *a priori*, with this task that was left to collective bargaining. This measure was further extended in the 2012 Stability Law (Law No. 183/2011).

The 2013 Stability Law provided further details about the PRP tax bonus. The link with decentralized bargaining was reasserted, by selecting for the first time the “more representative workers’ associations in comparative terms at national level or their trade unions operating in the company.” Moreover, the law introduced the formal notion of PRP with the aim of pre-determining the parameters for evaluating results.<sup>18</sup> After extending the measure for a year, without bringing relevant innovations, this initiative was suspended in 2015 due to a lack of financial coverage.

A significant change was carried out in 2016 when the legislative measure was revived, leading to important changes as compared to the past, for example by providing tax bonuses on PRP and other aspects, such as occupational welfare and company profit-sharing.

A 10% substitutive tax is recognised to PRP introduced through second-level collective agreements. On the contrary, absent a corporate trade union, it is necessary to refer to local-level collective bargaining (e.g. a local-level agreement model, such as that of 14 July 2016 between the employers’ association (Confindustria) and trade unions (CGIL, CISL, and UIL). Without trade union representatives at company-level and with the firm not being a member of any employers’ association, local-level collective bargaining can be implemented regardless of the company’s economic sector and geographical

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<sup>18</sup> First of all, decentralised bargaining can introduce wage items expressly connected “to quantitative indicators of productivity/profitability/quality/efficiency/innovation;” secondly, also the items connected to elements of organizational flexibility are rewarded with regard to working hours, holidays, new technologies, etc.

location.<sup>19</sup> There exist divergent opinions about this new form of local-level bargaining, according to which the agreement at local level might be concluded referring to a scheme used by each company. Some welcome this approach (Leonardi, 2017), while some oppose it (Tomassetti, 2016).

With regard to the income thresholds for accessing this provision, the government decided to widen the base of applicants, including workers with middle and high incomes (in 2016 individuals with incomes up to 50,000 Euros were included, while in 2017 those earning 80,000 Euros per year were also eligible). Moreover, in 2016 the substitutive tax applied to bonuses worth up to 2,000 Euros, whereas in 2017 3,000 euros-worth bonuses were also included.

Compared to the past, the most important novelty is the higher degree of strictness used in defining - hence reducing - social partners' discretionary power to identify the criteria assessing productivity increases. In this sense, the Inter-ministerial Decree of 25 March 2016, implementing the measure, moved beyond the uncertain notion of "productivity wages" used in 2013. Furthermore, additional criteria were identified to assess "the increase in production or saving when using productive factors, or the improvement of product and process quality". The Decree required second-level bargaining to refer to a "congruous period" to ascertain the results achieved. It also took into consideration organizational flexibility, such as the reorganization of working hours and agile work (salaried employment without restrictions relating to working hours or the place of work - Law No. 81/2017), explicitly excluding overtime. With regard to workers' profit-sharing, decentralized collective agreements must provide for a plan to regulate profit distribution. By way of example, they expressly provide for the creation of joint working groups made up of company managers and workers with the aim "of improving production areas or systems." Moreover, they must be provided with permanent monitoring and consultation structures.

## ***2.2. The Relative Success of Local-Level Bargaining for Accessing Tax Bonus On PRP***

From May 2016 to August 2017, 23,063 compliance statements were submitted by Italian enterprises (Table 1) in order to access tax benefits, involving almost

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<sup>19</sup> This interpretation seems to be confirmed by the fact that the operational instructions recalled under the previous note - in case of a company that intends to access the tax bonus stating to enter into a local-level collective agreement - substitute the obligation to register with the mere indication of the date of occurred registration of the contract, and also allow the "selection of any territorial direction".

five million applicants. Bonuses on PRP were worth almost six billion Euros, with an average value of 1,284 Euros.

Since this data points to significant differences between firm-level and local-level agreements, it is important to analyse this distinction in detail. Local-level agreements are used less in Italy, therefore this paragraph will provide only a general outline of this issue. Conversely, firm-level agreements bear relevance for the development of second-level agreements. Consequently, they will be analysed in depth in the second paragraph, starting from a number of interpretative theses relating to regional imbalances which are still evident in Italy. Analysing the data obtained from MLPS's Repository, "compliance statements" are 23,063, 18.1% of which refer to local-level bargaining (Table 1). This share is not significant, but is not irrelevant, either (this type of contract concerned 4,166 applications). As mentioned, the Law legitimizes a company's direct local-level bargaining. This means that there is no obligation to join a representative association, and/or to have a trade union within the company, somehow welcoming a sort of "contractual shopping". The data illustrates important findings also in geographical terms, as local-level bargaining in Italy is implemented as follows: 55.9% in North-East; 23.7% in North-West and 15.3% in the Centre, while only 4.9% in the South and the islands. Moreover, firm-level bargaining is more widespread in the Western Italy, while local-level bargaining dominates in Eastern Italy (Table 1).

This is due to the fact that most small-sized companies are based in the north-east. Some 42.2% of the firms that submitted a compliance statement on-line employ less than 15 employees, followed by those employing from 15 to 50 employees (19.8%), and the rest

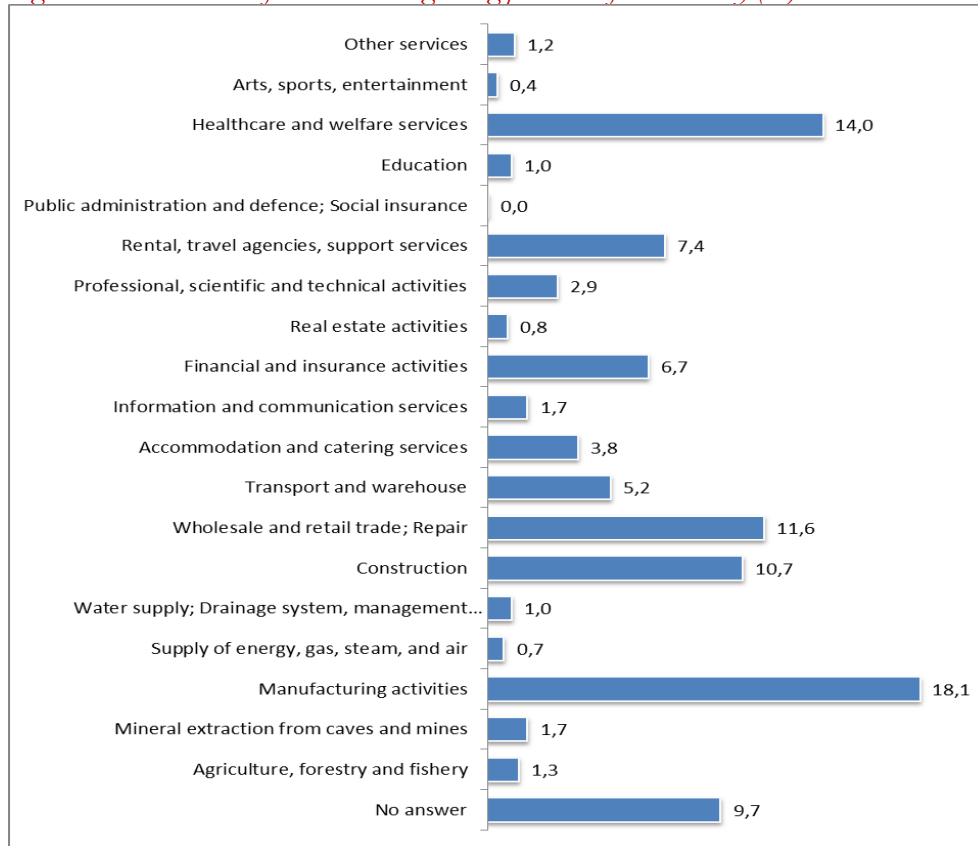
Table 1. Applications, beneficiaries and average value of PRP per typology of agreement, territorial division, firms' size, economic sector (a.v.)

Total	Sector of economic activities					Firms' size					Division of the contract				
	S	C	I	A	N	2	F	F	F	U	N	S	C	N	N
18,897	6	2	9	9	2	4	3	2	3	2	3	1	3	6	8
244	3	3	1	5	2	6	1	6	3	2	3	2	2	2	2
4,615,076	3	0	7	8	0	4	3	9	4	4	7	3	9	1	5
6,054,621,241	2	8	1	5	6	2	4	1	1	4	9	3	9	1	2
1,312	7	8	1	1	1	3	6	2	1	6	1	5	1	1	2
4,166	2	4	8	5	4	3	2	3	8	1	5	2	6	2	9
80	4	9	5	0	0	5	9	7	2	6	0	3	8	7	9
333,737	7	8	6	1	2	3	1	6	3	6	2	8	8	7	9
299,907,716	1	3	6	8	9	1	3	2	2	1	1	1	5	1	9
899	7	0	6	8	1	6	3	4	1	7	4	6	7	7	7
23,063	1	2	9	7	6	1	2	2	2	8	9	2	7	8	1
215	3	9	0	7	7	7	8	3	3	1	4	9	7	1	1
4,948,813	7	7	1	8	6	1	7	9	9	7	7	1	1	5	1
6,354,528,956	0	5	1	1	3	0	8	5	6	5	0	0	0	0	0
1,284	8	7	1	1	2	4	3	3	4	3	3	1	3	8	9
0	3	0	4	0	0	0	0	0	0	0	0	0	0	0	0
0	2	1	1	4	2	6	1	6	3	1	3	2	2	1	2
0	6	2	6	2	8	2	3	9	3	6	0	1	6	7	3
0	2	9	1	6	7	2	5	2	1	5	1	3	9	1	2
0	0	0	8	0	8	1	0	3	9	0	6	8	0	0	0
0	2	1	2	6	1	3	6	2	1	7	1	5	1	1	2
0	2	0	0	0	0	0	3	3	5	2	7	0	0	0	0
0	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
0	4	5	0	2	2	3	2	1	1	2	2	5	4	1	2

Source: Elaboration on MLPS's Repository.

As a way of comparison, 55.4% of the firms that entered into firm-level bargaining have 50 employees or more, but only 24.5% of those with the same number of staff engaged in local-level bargaining. With regard to the economic sector (Table 1), 56.8% of companies belonged to the macro category of services, 21.5% to industry strictly speaking, 10.7% to the construction sector and 1.3% to agriculture. When this data is disaggregated and economic activities are considered (Figure 1), the most represented sectors are manufacturing (18.1%), followed by healthcare and welfare services (14.0%), wholesale and retail trade, car and motorcycle repair (11.6%), and construction (10.7%).

Figure 1. Distribution of local-level bargaining per section of economic activity (%)



Source: Elaboration on MLPS's Repository

It is also interesting to analyse in detail the characteristics of firms with regard to the four most significant economic sectors. The manufacturing sector accounts for 48.7% of firms up to 15 employees, and for 28.3% of firms employing from 15 to 50 employees. The healthcare and welfare services involve significantly larger firms: from 15 to 50 employees (30.1%); up to 15 (27.9%); from 100 to 250 (15.4%); over 250 (10.6%); from 50 to 100 employees (10.6%).

Small-sized and micro-sized firms are prevalent in the commerce sector: 63.1% of the firms employ up to 15 employees, and 24.3% of them consist of 15 to 50 workers. Firms in the construction sector are also small-sized ones, as those up to 15 employees account for 90.1%. Therefore, the number of firms involved in local-level bargaining is affected by structural dynamics connected to size and geographical position. However, it is also necessary to consider the variable relating to applicants. Local-level bargaining concerns a significant

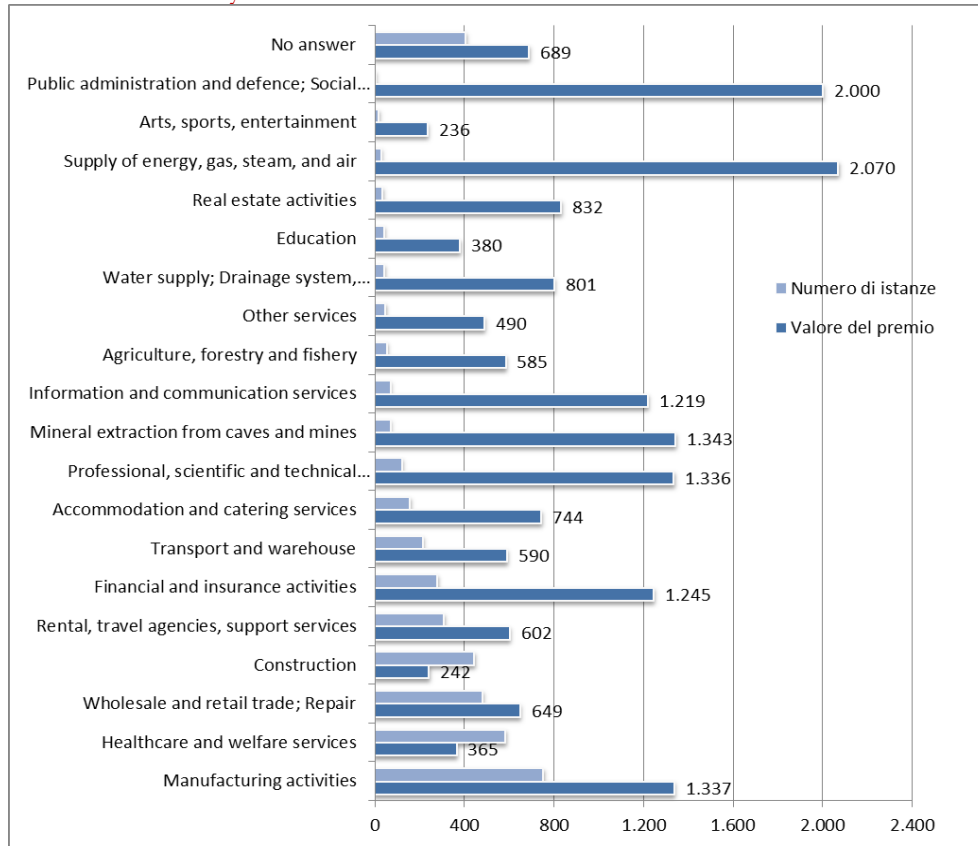


number of employees providing them with the relevant benefits established by law, even though its poor implementation as compared to firm-level bargaining. The number of local applications (4,166) involved 333,737 workers (Table 1). Therefore, those applying for the tax bonus on PRP are far below the 4,600,000 employees engaged in firm-level bargaining. Applicants are located in the north-east (164,281), in the north-west (97,304), and to a limited extent, in the centre (54,318) and in the south of Italy (17,834).

When comparing the share of applications by firms (18.1%) with that relating to applicants (6.7%), employees' little participation is even more evident. Since firms are small- and micro-sized ones, 30.1% of the compliance applications submitted on-line account for 1 to 5 applicants; 44.0% account for a number of applicants up to 10; and 53.4% up to 15. As might be the case in this distribution, the average value is rather high (80), while the median certainly represents a more adequate value to the summarized representation of the data counting 14 applicants. Significantly, the most widespread value concerns 1 applicant. In this latter case, an annual average bonus of 404 Euros is granted.

The total value of the tax bonus on PRP (Table 1) is almost 300 million Euros, not even close to the corporate one, which is equal to 6 billion. The pro-capita annual average value is equal to 1,265 Euros (firm-level bargaining) and to 779 (local-level bargaining). This figure is related to the 2016-2017 average value; considering June-December 2016 and January-August 2017, the value is 727 Euros and 917 Euros, respectively. For information purposes, we provide the median and 5% trimmed mean in order to better contextualize Repository data. In 2016, the median was 455 Euros (trimmed mean: 683 Euros), while in 2017 it was 620 Euros (trimmed mean: 842 Euros). Assumingly, the value of the tax bonuses on PRP seems to have increased over time. However, in order to substantiate this hypothesis, it is necessary to wait for next year's data. The Repository features various issues linked to the modalities for submitting compliance applications which does not allow comparing the two periods. With regard to geographical position (Table 1), the PRP value is 112 million Euros in the north-west, almost 83 million in the north-east, some 80 in the centre and 24 in the south. This leads one to infer that in Northeast Italy the number of applications was higher, although with a high degree of variability. However, they concern a lower average PRP value (582 Euros) when compared to the North-West (824 Euros), as well as to the Centre (1,276 Euros). As mentioned, the highest PRP value is not reported in sectors where it is most disseminated, but in others where this practice is unusual (Figure 2)

Figure 2. Value of the Pro-capita Annual PRP and Number of Applications per Economic Activity



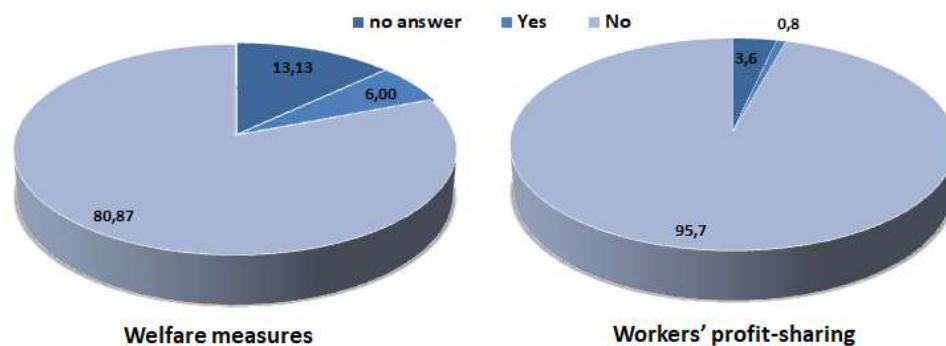
Source: Elaboration on MLPS's Repository

The manufacturing sector (18.3% of the cases) is certainly among the most important sectors in Italy, and the estimated value of PRP is 1,337 Euros. This is one of the highest values and, in 50% of the cases, concerns firms with less than 15 employees. In addition, one might argue that the manufacturing sector bears relevance in Italy also with regard to the diffusion of local-level bargaining. In the healthcare sector (13.5% of cases), the PRP is low when compared to that of the engineering industry (365 Euros). The commerce sector (11.5% of cases) reported a PRP slightly below average (649 Euros), while the construction sector (10.2% of cases) registered an even lower average PRP value (242 Euros). With reference to the latter figure, it is important to highlight that almost all cases concerned firms with less than 15 employees (91.3%).

As mentioned above, local-level bargaining may also regulate specific aspects, such as occupational welfare or profit-sharing. Occupational welfare has been given new momentum in the media, academia and politics, so more significant figures could have been expected (Figure 3). In this case, only 6.0% of firms resorted to local-level bargaining, while it was concerning that few firms answered the relevant question (13.1%). This may be due to various reasons: uncertainty resulting from the small size of the firm; an existing welfare scheme which has been adjusted to employees' needs; today's increasing access to services platforms.

With regard to geographical position: 6.7% of firms are based in the north-west, 6.4% in the north-east, 5.0% in the centre, and a meagre 1.4% in the south. With regard to the economic sectors, an above-average value was registered only among financial and insurance firms (29.6%), while a lower value was reported in the manufacturing sector (3.5%), healthcare and welfare services (6.7%), commerce (3.1%) and construction (0.4%).

Figure 3 Recourse to Occupational Welfare and Profit-sharing (%)



Source: Elaboration from MLPS's Repository

Access to welfare services still seems to represent a problem. Access modalities for those who are not – and are not willing to become – members of employers' associations could be solved by creating a network among the firms concerned. This could be easier to realise among firms of the same industrial district, or by joining private groups specialized in the sector that have already set up and make available a digital platform of goods and services. In all these cases, however, these digital platforms would be able to take off only with high scale volumes.

Unlike occupational welfare, profit-sharing is given scant consideration in the media and among experts (Carrieri, Nerozzi & Treu, 2015). This is well reflected the Repository data (Figure 3), where profit sharing accounts for less than 1% among the firms which have concluded registered local-level

agreements. In addition, considering unanswered questions (3.6%), profit-sharing is residual, regardless of its relevance. Thus, it seems unnecessary to analyse this aspect in depth, either at local or at sectoral level.

The lack of interest toward this aspect certainly constitutes a missed opportunity. Considering employees' ideal involvement in corporate policy, it is a topic that could develop in the upcoming future, but currently it is still suffering from strong cultural hesitations (Ichino, 2013). However, although there is no participation in firm management yet, profit-sharing represents another element toward a firm with a "human face" (Budd, 2004) to which also the labour force is called to give its "voice" nowadays, not only in terms of work performance, but also by joining an overall common project. A firm in which "employment outcomes are the product of interactions between employees and employers as influenced by both the work environment and the nature of human decision making, including ethics" (Budd, 2004:8).

### **3. Measures for Labour Productivity in Firm-Level Bargaining**

#### ***3.1. The Territorial Rootedness of Firm-Level Bargaining***

With the aim of analysing the territorial rootedness of the measures promoting labour productivity in firm-level bargaining, the regional level has been considered, for a number of reasons.

First of all, these measures provide useful statistics for local comparisons also at international level (NUTS 2). Moreover, with regard to labour market legislation, the Regions have powers which at times overlap with those state ones, while in other cases are exclusive, with this state of affairs that has given rise to local labour markets.

The variables highlight a territorial distribution of firm-level bargaining with distinct characteristics. Most applications were submitted in the centre-north (17,406), with fewer applications submitted in South Italy (1,491).

Firm-level bargaining can have a different impact, as the number of employees benefitting from the measure varies greatly. Therefore, besides the number of applications registered, it is advisable to consider the number of actual beneficiaries, which confirms the progressive geographical gap. In particular, the 4.6 million beneficiaries are divided as follows: 44.1% in the north-west, 28.3% in the north-east, 20.1% in the centre and 7.5 in the south and the islands. Each region presents different firm sizes and employment conditions. Therefore, in order to better understand the effectiveness of the initiative and

its diffusion in local labour markets, the relevant incidence was calculated<sup>20</sup> (Figure 4).

When considering absolute values, Lombardy ranks first among the regions in relation to the number of applications submitted (5,940) and that of the beneficiaries involved (1,408,807). Calculating incidence, it ranks second, due to the large share of people employed in this region. The following are the regions with the highest incidence: Emilia Romagna (11.17%), Lombardy (10.52%), Piedmont (9.52%), Valle d'Aosta (9.03%), Lazio (8.68%), Friuli Venezia Giulia (8.56%), Veneto (7.05%). In Southern regions and the islands, incidence is extremely low and does not go beyond 2%, with the exception of Basilicata and Abruzzo (4.06% and 3.93%, respectively). In all other regions, the values ranged between 3% and 4%.

A dichotomy can be seen in Italy's economy from many viewpoints. The divergence between the central and northern regions and the southern ones emerge when measuring labour market conditions and the territorial rootedness of intervention policies (Resce, 2016a). Also in this case, a marked concentration is identified at regional level, which is characterised by a significant incidence in central and northern Italy.

These divergences are confirmed also by the overall distribution of bonuses (Figure 5). The total amount of wages facing tax reduction is 6 billion, 43% of which are concentrated in the north-west, 26% in the north-east, 22% in the centre and only 9% in the south and the islands.

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<sup>20</sup> The incidence was calculated as the number of total beneficiaries out of the average number of people employed per region registered in the 2015-17 period.

Figure 4. Regional incidence of firm-level bargaining



Figure 5. Regional distribution of the declared bonuses

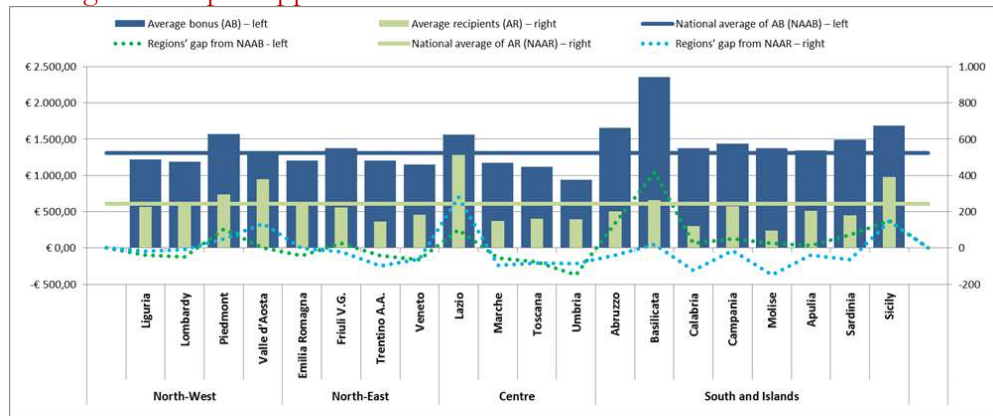


Source: Elaboration on MLPS's Repository

Figure 6 highlights a number of trends at local level. In particular, the average values of the bonus per beneficiary in Southern regions (the south and islands) are above or equal to national average. At the same time, the average number of beneficiaries involved per agreement is below national average, with the exception of Sicily, Basilicata and Campania, which are in line with the national average. The values of the bonus in northern regions are below national average (with the exception of Piedmont and Friuli) and the number of beneficiaries is almost in line with the national average (with the exception of Trentino Alto Adige). In central regions, the average values of the bonus and the beneficiaries are below national average. In this context, the average number of beneficiaries in Lazio is so relevant (525) to affect not only local statistics, but also national averages. Geographically speaking, the average number of beneficiaries per agreement and of the bonus per beneficiary are

distributed as follows: north-west (250, € 1,287.72); north-east (212, € 1,204.49); centre (299, € 1,413.73); south and islands (232, € 1,586.13).

Figure 6. Regional Distribution of the Average Applicants per Agreement and Average Bonus per Applicant

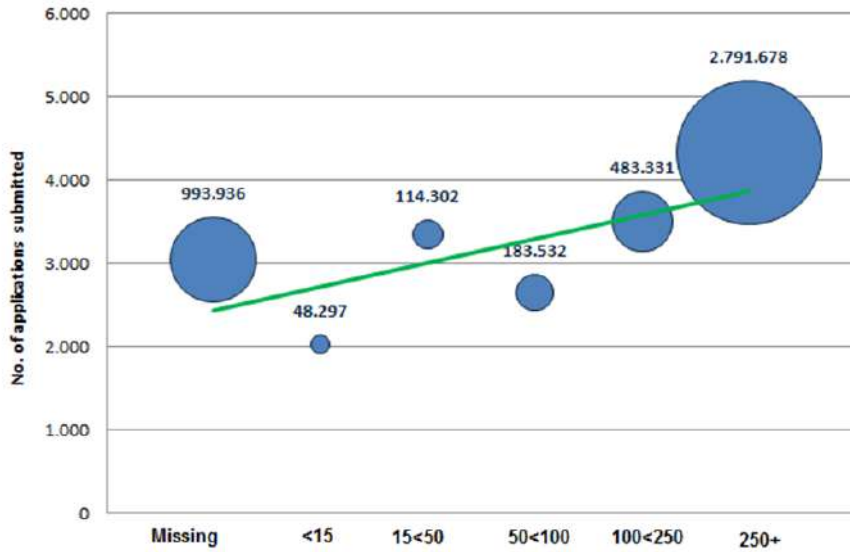


Source: Elaboration on MLPS's Repository

### 3.2. The Dimensional Structure of Firm-level Bargaining

One of the determinants affecting the recourse to firm-level bargaining is firm size. Although most agreements are not comparable due to a lack of data (about 16%), it is possible to argue that the larger the size of a firm, the higher the tendency to enter into firm-level agreements. With the exception of a slight decrease of the applications submitted by firms with 50 to 100 employees, the number of agreements has increased steadily (see Figure 7).

Figure 7. No. of Applications and Beneficiaries Involved per Size



Source: Elaboration on MLPS's Repository

The impact of size is evident when considering the total number of beneficiaries. Without taking account of absent data, and comparing two groups of firms – one employing less, the other hiring more than 100 employees – the situation is almost equivalent (actually, the first group prevails over the second, 42.46% against 41.42 %). Things are completely different in terms of beneficiaries involved, as the first group concerns 7.5% beneficiaries, while the second group 70.96%. This natural multiplying effect on beneficiaries applies to firms with many employees. The last category, which refers to firms with more than 250 employees (Figure 7), includes 4,330 agreements (22.91%), involving 2,791,678 beneficiaries (60.49%).



Figure 8. Distribution of Shares relating to Employment and Beneficiaries per Firms' size and Geographical Area

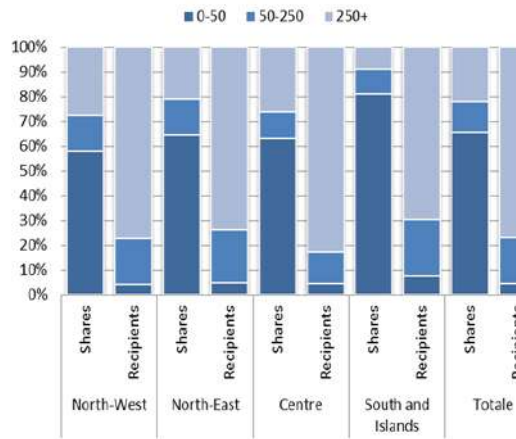
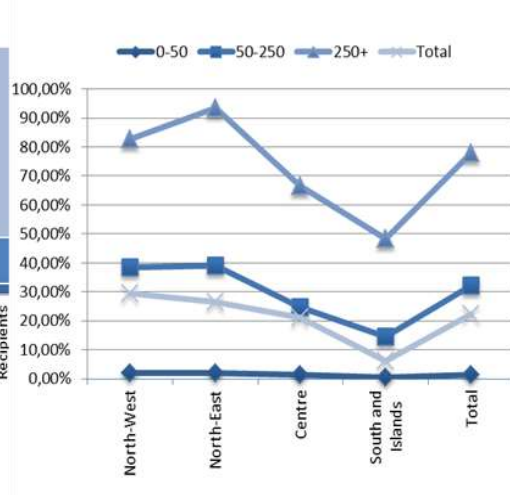


Figure 9. Incidence of Beneficiaries over Employees per Firms' size and Geographical Area



Source: Elaboration on MLPS's Repository

This correlation between firm size and the tendency to enter into firm-level bargaining is the argument mostly resorted to when justifying the scarce consolidation of second-level collective agreements in the South, on account of many micro and small firms in that area.

The employment rates per firm size (Figure 8) show a high concentration of firms up to 50 employees in the south and islands and a limited number of medium- and large-sized firms. This explains, albeit only partly, the conclusion of these agreements. Another explanation might be the little tendency of all firms in this area, irrespective of size, to implement this measure through second-level collective agreements. In turn, this trend might be ascribed to the limited space given to this measure, due to the presence of other labour market incentives. The sectoral structure of the firm-level bargaining might also have a play.

### 3.3. The Sectoral Structure of Firm-level Bargaining

The sectoral structure of the applications (Figure 10), irrespective of lacking data, accounts for about 14.81% and sees the prevalence of the services sector, which in terms of beneficiaries totals 44.99%, followed by the industry strictly speaking (38.20%), the construction sector (1.89%), and the agricultural sector (0.11%).

Breaking up these macro-sectors into single activities, it is clear that the greatest contribution comes from manufacturing, and in particular from manufacturing (32.18%), followed by financial and insurance activities (14.58%), commerce (8.09%), transport (7.33%), professions (4.76%) and communication services (3.57%). All other activities have an incidence below 3%. Therefore, different sectoral dynamics exist. When considering the regional specialization models, these may have affected the current territorial dynamics.

Figure 10. Sectoral Distribution of the Beneficiaries (Macro-Divisions And Details Ateco 2007)

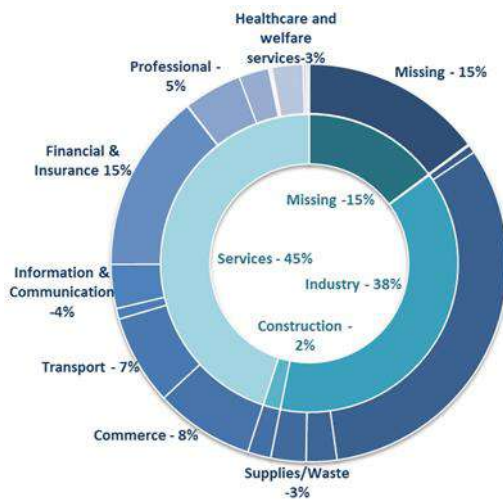
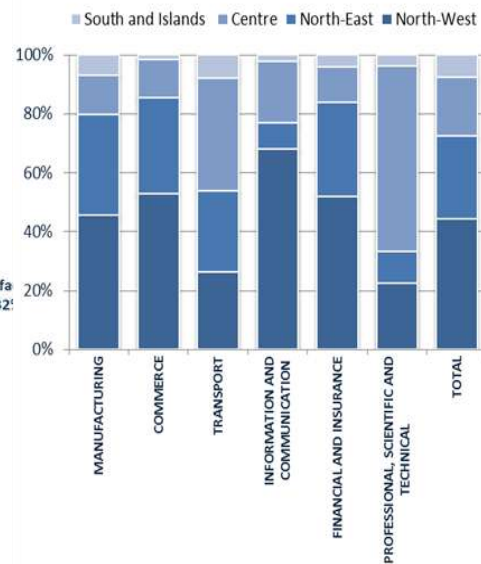


Figure 11. Composition of Applications per Main Sectors on the Basis of the Geographical Area



Source: Elaboration on MLPS's Repository

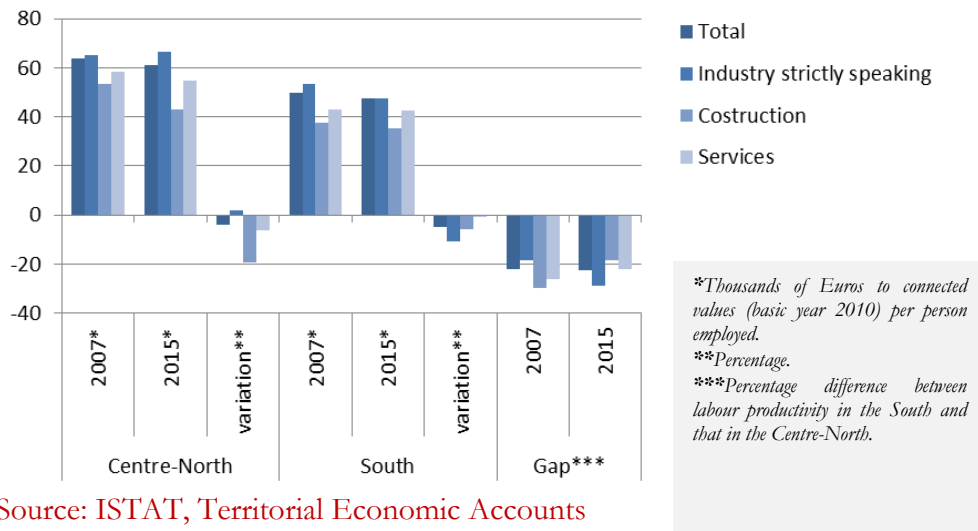
The making up of the single productive sectors per geographical area (Figure 11) shows that the South has little presence in the largest sectors. An exception is given by the transport sector, as its contribution has increased. On the contrary, the north-west alone concerns 44% of applicants. Therefore, a relatively higher presence is reported in the sectors more involved in registrations of firm-level bargaining, in particular manufacturing, commerce, information and communications, and financial and insurance services.

### *3.4. Geographical Divergences and the Risk of Polarization*

The data collected through the registration of firm-level agreements with the MLPS and on the concessional taxation of performance-related bonuses highlights a significant territorial divergence. Firm-level bargaining is implemented in the centre-north more than in southern regions.

The traditional explanation for this is the greater presence of micro and small-sized firms in the South, with them showing little tendency to use these agreements. However, this explanation does not seem sufficient. The registration of agreements concluded in the South and the islands is relatively concerns micro and small enterprises to a limited extent, where greater presence was expected. A more logical explanation for this geographical dichotomy is the sectoral specialisation of the regional economies. In the sectoral composition of firm-level bargaining - calculated on the basis of the number of applications submitted and the number of applicants involved – the regions of the South are relatively less present in the most dynamic sectors. Moreover, it is important not to underestimate undeclared work (Resce, 2016b), which by definition is excluded by bargaining. Another aspect, which has not been considered in this paper, refers to the recourse to undeclared work, which is more widespread in this country. This concentration in the distribution of applications rises some concern especially with regard to firm-level bargaining. When considering how firms entered into the agreements, such measures could increase the already marked territorial dualism which characterises Italian regions. This difference rests on an inefficient allocation of the increases of productivity. From 2007 to 2015 – that is from the pre-crisis to the post-crisis period – the already wide labour productivity gap between the south and the centre-north slightly increased (Carmignani & Staderini, 2016), even if with differentiated sectoral dynamics (Figure 12).

Figure 12. Labour Productivity in Italy (2007 and 2015)



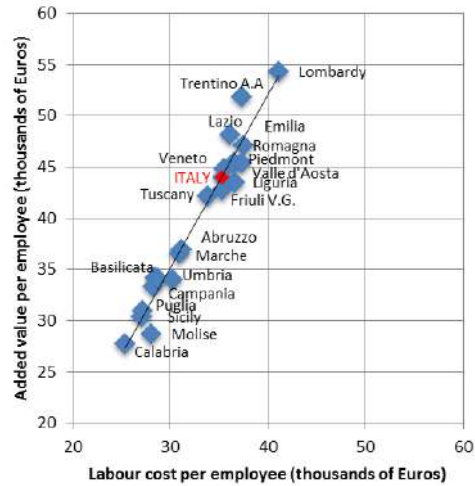
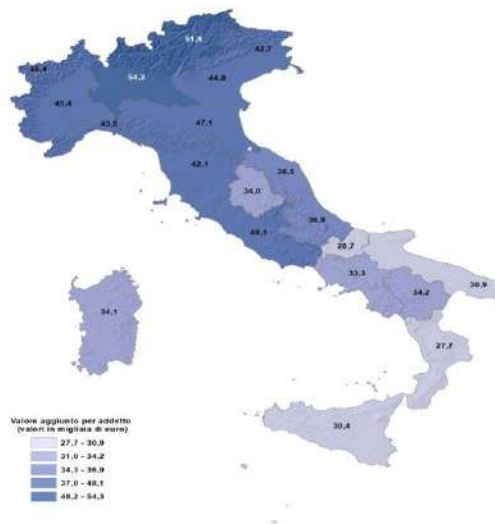
Source: ISTAT, Territorial Economic Accounts

With regard to the industry strictly speaking, the centre-north regions quickly recovered the 2009 labour productivity crisis, and reporting values higher than those of the pre-crisis period. In the South recovery was weak, causing a widening of the productivity gap between the areas. In the services sector, the drop in productivity in the centre-north areas was more marked compared to that in the South, especially due to the higher stability of employment levels in the former. This dynamic can also be seen in the construction sector. The overall added value decreased more intensely than the number of people employed in both areas of the country. These dynamics were partially due to a more marked increase of the efficiency of allocation<sup>21</sup> in the centre-north compared to the South (Linarello & Petrella, 2016).

When contrasting the added value per employee per region before the introduction of incentives (Figure 13) with the territorial incidence of governmental productivity measures within the framework of firm-level bargaining, the divergence process of the Southern regions' productivity would increase more markedly for several regions, such as Molise, Campania, Apulia, Calabria, Sardinia and Sicily.

<sup>21</sup> The allocative efficiency measures the ability of an economic system to direct resources toward the most efficient firms.

Figure 13. Added Value Per Employee per Region (2014)      Figure 14. Added Value per Employee and Labour Cost per Employee per Region (2014)



Source: Processing of ISTAT's data (2017 Italian Statistics Report)

The current debate involves the advisability to redefine the structure of the collective bargaining system in order to support the recovery of competitiveness of the Italian economy. There is a need for an industrial relations system capable of guaranteeing flexibility in regulating wages and a greater employment resilience toward the economic cycle (Boeri, 2014 and 2017).<sup>22</sup> Some suggest reforming the industrial relations system in favour of the decentralised system, also recognising the possibility to set lower wages.<sup>23</sup> Others opt for the introduction of legal minimum wages leaving to the decentralised bargaining system the establishment of further wage components (Tufo, 2018). The aim is to use decentralised bargaining to decrease wages in

<sup>22</sup> In particular, reference is made to the debate organized by AREL, Agenzia di Ricerche e Legislazione (Research and Legislation Agency), on the occasion of the presentation of the volume "Salari, produttività, disuguaglianze" (Rome, Thursday 14 September 2017), with the intervention, besides the curators (Treu, Dell'Aringa, Lucifora) and various stakeholders, also of Boeri and Letta.

<sup>23</sup> The inter-confederal agreement of Confcommercio of 2016 expressly provided for the possibility for the second-level collective agreement to derogate to institutes the economic content established at national level. Also the confederal agreement of Confesercenti of September 2017 provides for the possibility of derogation at local-level of the wages defined by the NCBA, upon explicit delegation of the NCBA.

the South. However, this decrease could lower families' consumption with a slowdown of economic growth in these areas, which already struggle. There is a world that goes beyond corporate production, and refers to conditions of social cohesion. Therefore, these dynamics should be analyzed taking into account wealth-related trends, according to which people living in the South are 40% more likely to face poverty (Bank of Italy, 2018). Moreover, the idea to increase young people's mobility toward higher-wage areas is not properly substantiated. This state of affairs would increase the already evident skill drain in the South. This would hinder generational change and human capital development, which are necessary in these areas to promoting local growth (Resce, 2006; Svimez, 2018).

Wage reduction in the South is often justified with the need to increase profit margins in relation to low productivity, even though it is in the South that the lowest labour costs per employee are reported. Apart from the reflection on wages as a lever for internal demand, it is difficult to imagine that labour costs per employee may be further reduced, in consideration of the already low levels (see Figure 14). Regaining competitiveness in this area, especially when making a comparison with eastern European countries, appears to be an unreachable target, particularly when taking into account the already low labour costs reported.<sup>24</sup> The run-up must not be downward but upward, increasing production upgrading in qualitative terms. Policies other than those related to the labour market could be much more effective, acting on aspects on which Southern Italy still lags behind, e.g. infrastructure development, education and training quality, financial slowdown, etc. The regulation of the labour market is certainly important. However, besides a closer interconnection between industrial relations and active and passive labour policies, greater external integration with the other development policies is also needed. European policies draw inspiration from convergence attempts, also in industrial relations (Vaughan-Whitehead & Vazquez-Alvarez, 2018). However, the models are still substantially different. This paper highlights that although the regulations and conditions for accessing a measure may be equal, local market conditions produce different results, with the risk of triggering further divergences. In conclusion, this analysis suggests that, for the future, it will be necessary to design instruments which adequately invest in the specific characteristics of local labour markets in order to promote second-level bargaining. Moreover, the current incentive system needs to be integrated with other policies that take into account contextual differences. The answer should be sought not only in

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<sup>24</sup> Eurostat, news release No. 58/2017– “Labour costs in the EU Hourly labour costs ranged from €4.4 to €42.0 across the EU Member States in 2016” - 6 April 2017.

labour policies, but also in wider measures, in particular industrial policies and in those relating to local development.

#### 4. Conclusions

It is still too early to assess whether and to what extent these policies have contributed to determining positive effects on collective bargaining and productivity growth. Generally, creating a “race to the incentives”, which is a problem that is common to all support policies, gives rise to a lot of criticism. This attention to tax relief is also confirmed by the approaches that took place with agreements negotiated and which reproduce the same tactics (Fazio & Tiraboschi, 2011) in the face of different realities that would imply different solutions to increase productivity. The practice of so-called “cosmetic agreements” (Antonioli & Pini, 2013) has become widespread, determined by a merely formal link between accessory wages and performance-related pay, the results of which are difficult to measure.

Some authors have pointed out that in local-level bargaining the risk of an improper use of this measure is likely (Tomassetti, 2016b) as is that of generating “photocopy agreements” (Tomassetti, 2016a) aimed at ensuring access to the tax premium to workers in companies without trade union representation.

The Council of the European Union was also critical<sup>25</sup>: “Tax rebates on productivity-related wage increases have not proved effective in significantly extending the use of second-level bargaining”. Recently, the EU has reviewed its own judgment, recognizing the difficulty of evaluating this policy, without expressing a specific recommendation. Despite the challenges to evaluating politics as a whole, some conclusions can be drawn on the first implementation of tax relief measures, identifying some pros and cons.

As for “pros”:

- the new tax rebates on productivity-related pay increases is more rigorous, also due to a mandatory monitoring process provided by law;
- while not fully contributing to the growth of labour productivity, the new incentives generate a reduction in the tax wedge;
- “productivity” and “profitability” are primary objectives in the agreements considered;
- complexity reveals the collective bargaining capability to adapt to the company’s organizational and production needs.

<sup>25</sup> Ref. "Council Recommendation on Italy's National Reform Program 2017 - COM (2017) 511 final" and "Council Recommendation on Italy's National Reform Program 2018 - COM (2018) 411 final".

As for “cons”:

- second-level bargaining is not yet widely used and therefore the potential advantages of its application are not evenly distributed in the productive fabric;
- two-tier wage bargaining structures could reconcile macroeconomic stability with a closer link between productivity and pay: this goal is far from being achieved due the limited use of firm level agreements;
- the use of occupational welfare programs is limited even if the growth trend is positive, with workers' participation practices being poorly widespread;
- it is still early to evaluate tax rebates on productivity-related pay increases but, even if successful, this policy could generate polarizations of productivity gains depending on geographic areas and company type (i.e. size and sector).

Today, decentralized bargaining is considered of fundamental importance because its wider implementation in wage definition and work organisation would produce a closer link between productivity and wage growth. This alignment is more complex in the recessionary phases, for the rigidity of downward salaries is dependent upon first-level collective bargaining. Divergent views exist as to how the structure of the collective bargaining system should be redefined to support the recovery of competitiveness of the Italian economy. There is a need for a system of industrial relations capable of guaranteeing flexibility in the regulation of wages and a greater resilience of employment to the economic cycle<sup>26</sup>. Some advocate for a major overhaul of the industrial relations system in favor of the decentralized one (D'Amuri & Nizzi, 2017)<sup>27</sup>, recognizing the possibility of setting lower wages. Others welcome the introduction of a legal minimum wage, leaving to decentralized bargaining the determination of additional wage components.

Many follow a micro approach, considering that flexible downward wages at company level guarantees greater competitiveness together with higher profit margins. From the macro point of view, however, it has been highlighted that salary increases are important, since Sylos Labini's productivity function recognizes their fundamental role for the growth of productivity, equating it to

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<sup>26</sup> In particular we refer to the debate organized by AREL (Agenzia di Ricerche e Legislazione) on the occasion of the presentation of the book "Salari, produttività, disuguaglianze" (Rome 14 September 2017).

<sup>27</sup> See D'Amuri e Nizzi (2017): «*In this regard it would help the provision of procedures - possibly articulable, for the purpose of greater legal certainty, also at a legislative level - aimed at guaranteeing the possible prevalence of company agreements on the provisions of the national contract, including the possibility of derogating even in a pejorative sense from the stipulations established by the NCBA*».



an extension of the demand for consumer goods, to the price of machinery-related work, to the absolute cost of labour (Tronti, 2013). In this sense, the review of collective bargaining should make company reorganization necessary and cost-effective in order to increase productivity. For this purpose, it is useful to recall the "dialogue between economists", which took place a few years ago but it is still relevant. It provided policy indications that can be summarized in three points: negotiation of guidelines for reorganizing workplaces; determination of objective values of productivity increase (c.d. programmed productivity); explicit bargaining of a target value of the wage share in income. It seems clear that further developments in measures supporting productivity in the context of decentralized bargaining should be conceived in a more organic framework featuring the close integration between policies at different levels. Connection within labour policies must be increased, just as the latter must be integrated with territorial and industrial development policies. After years of labour market reforms, which have not generated the productivity gains hoped for, perhaps it might be useful to provide a new approach which considers reforms and new policies to be implemented. Just as greater integration between policies is essential, the system of industrial relations must also achieve closer coordination between the two levels of bargaining, to avoid the risk of treating wages as a variable independent of macroeconomic conditions (Fadda, 2013) and consider it only for its micro value at company level and for short-term solutions. Regarding occupational and fiscal welfare, they are key to redistributing benefits and opportunities within the segmentations already present in the Italian labour market and which have been analyzed in the literature (company size, sector, territorial district). In this sense, occupational and fiscal welfare measures can reinforce a general trend toward fragmentation and inequalities within the labour market and the welfare state itself. This constitutes a very strong policy indication that political authorities should take into due account. With these measures, the traditional north–south divide, which has been one of the main political concerns of central institutions, may have caused further exacerbation. As has already been authoritatively affirmed “one of the consequences of both fiscal and occupational welfare can be even more divided society. Furthermore, fiscal welfare can turn upside down and occupational welfare prolongs existing inequalities on the labour market (along the lines of gender, ethnicity, and the level of educational attainment)” (Greve, 2008:64).

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# Women's Participation in Bangladesh's Labour Market

Sazeeda Johora Thakur <sup>1</sup>

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## Abstract

**Purpose** – The article is concerned with Bangladeshi women and their role in the labour market.

**Design/methodology/approach** – Both a quantitative and qualitative approach has been employed.

**Findings** – Like in many other countries, maternity, housework and little education are major barriers to women's participation in the labour market.

**Research limitations/implications** – Bangladesh's Labour Code should provide more protection to female employment, helping women to strike a balance between family and work.

**Originality/value** – The paper focuses on Bangladesh, a country where little research has been conducted on the issue of female employment.

**Paper type** – Qualitative and analytical paper

**Keywords** – *Bangladesh, Labour Market, Female Employment, Family and Professional Life*

## 1. Introduction

Bangladesh is one of the largest-populated countries in South Asia and the 10<sup>th</sup> most populous state in the world<sup>2</sup> (as of 1 July 2015<sup>3</sup>, some 158.90 million people lived there). In 2015, the ratio between women and men was 100 to 30,

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<sup>1</sup> Barrister-at-Law and Advocate at the Bangladesh Bar Council; Lecturer, School of Law, BRAC University, Bangladesh. Email address: johora\_thakur@yahoo.com.

<sup>2</sup> World Population Review, *Bangladesh population* 2019, <http://worldpopulationreview.com/countries/bangladesh-population/> [Last accessed : 11 September 2019].

<sup>3</sup> Bangladesh Bureau of Statistics, *Education Scenario in Bangladesh: Gender perspective*, February 2017, p. 15.

meaning that women accounted for almost half of population in the country. Therefore, they can play a part in the country's economic development. However, some cultural barriers exist hampering women's full participation in the labour market. They are still mostly engaged in housework and economically dependent on males. Furthermore, those who enter employment face issues concerning the reconciliation of professional and family life. This state of affairs can only be overcome if women are given proper education and training helping them to develop the expertise needed to tap into their potential and contribute to national growth.

## **2. Research Purpose**

The aim of this research is to understand the factors hindering women's development and participation in the labour market. To this end, data collected through surveys concerning their household, economic and living conditions will be examined, along with the existing literature on this topic. This data will be useful to appreciate the cultural, socio-economic and educational variables characterizing a large number of Bangladeshis and to raise awareness of the problems faced by women when entering the labour market. In this sense, education is key to promoting female employment and upgrading their societal status. Consequently, this research aims at identifying the necessary measures to improve Bangladeshi women's living and working conditions.

## **3. Methodology**

Given the objectives outlined above, both a qualitative and a quantitative approach has been adopted. Qualitative data has been collected from secondary sources (books, journals, reports, and articles), while quantitative information has been gathered from that issued by different institutions (the UN and the Bangladesh Bureau of Statistics, among others). All data points to gender inequalities in industry, underlining that some barriers are in place affecting women's ability to strike a balance between work and family in Bangladesh.

## **4. Women's Role in Bangladeshi Society**

Traditionally, Bangladeshi women are devoted to housework and are not encouraged to participate in economic and social life. Providing for the family concerns men only, so they act as breadwinners and decision-makers in the family.



Bangladesh is a Muslim country, so inhabitants stick to the principle that women should always follow the instructions of their parents and husbands, thus they are not allowed to make decisions on their own. Consequently, and despite the role that women can play in the labour market, they are poorly involved and often excluded from employment. This situation also counters what the Quran says about men and women: “*The believers, men and women, are allies (awliya) of one another. They enjoin the ‘common good’ (al ma’ruf) and forbid the bad (al munkar), they observe prayers (salat) and give charitable alms (zakat) and obey God and his Prophet*” (Qur’an, 9:71). In this statement, equality between men and women is promoted, as they support one another through a spiritual, emotional and companionate alliance. Interpreting this verse, Fadlallah<sup>4</sup> (2019) speaks of: “a ‘coalition’ between men and women in ‘faith’, a ‘*wilayat iman*’.” He also states that: “this verse reaffirms the egalitarian vision of the Qur’an, which encourages women to be involved in all areas of social and political life, in contrast to the traditional exclusivist understanding that tends to reduce women to their function as wives and mothers, a role that, while important, cannot constitute their unique horizon in life”<sup>5</sup> (Fadlallah, 2019). Notwithstanding these words, women’s participation in society is still low in many Islamic countries undergoing development, including Bangladesh.

### 5. Female Participation in Industry in Bangladesh

Female participation in the labour force is pivotal for inclusive growth and well-being. There has been an increase in women’s contribution to modern sector activities (Amsden,1980). One good example of this state of affairs is South Africa, which has become successful in maintaining a consistent trend in this connection (Ntuli, 2004). According to the former World Bank president, Jim Yong Kim, “Countries such as Bangladesh are encouraging female participation in the workforce. If they [Bangladesh] stay on track, their female workforce will grow from 34 to 82 percent over the next decade, adding 1.8 percentage points to their GDP”.<sup>6</sup> In countries like Bangladesh, which focus on export-oriented industrialization, the involvement of female labour is

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<sup>4</sup> Fadlallah, M.H. (1935-2010), the Lebanese scholar, <http://www.asma-lamrabet.com/articles/are-men-and-women-unequal-in-islam/> [Last accessed : 11 September 2019].

<sup>5</sup> Asma Lamrabet, *Are men and women unequal in Islam?* <http://www.asma-lamrabet.com/articles/are-men-and-women-unequal-in-islam/> [Last accessed : 11 September 2019].

<sup>6</sup> Statement given at the World Bank Group/IMF Annual Meetings at Lima, Peru, on Friday. *The Daily Star*, Wednesday, October 11, 2015.

necessary, due to the rapid growth of labour intensive export-oriented industries like garments, electronics, toys, leather products, etc.(Lee 1981). According to the *World Employment and Social Outlook: Trends 2018*, “female employment in Bangladesh has seen a 35% increase, reaching 18.1 million from 2008 to 2017, whereas male employment has reported an 11% increase, reaching 45.7 million”<sup>7</sup>. Even if the rate of female labour force has increased (from 35.5% in 2015-16 to 36.3% in 2016-2017, that is 0.8) it is still very low if compared to the global average of 52% (International Labour Organization, Labstat)<sup>8</sup>. Based on the last survey of the Bangladesh Bureau of Statistics<sup>9</sup>:

- Informal employment and economy play a vital role in employment. In rural areas, 93.3% of women are engaged in the informal sector (87.4% in urban areas). At the national level, only 8.2% of women operate in formal employment, that is nearly half of the share reported for males;
- The unemployment rate for women stands at 4.2% (1.3 million), that is more than twice that of males;
- The average monthly earnings for women in national currency is 12,254 Taka, which is lower than males' remuneration;
- Out of the 6.6 million working people who are underutilized, 3.5 million are women;
- Women are mostly employed in the service and sales sectors (30.3%), followed by skilled agricultural work (23.6%), elementary occupations (14%) and machine operations (13.9%);
- Almost 7 out of 10 women face vulnerable working conditions (e.g. inadequate earnings, low productivity and difficult conditions of work).

## 6. Women's Participation in the Labour Market: A Comparison with Canada

Canada has been taken as a benchmark in that it fares well in terms of gender equality. It is the world's tenth largest economy and a vibrant, multicultural

<sup>7</sup> Dhaka Tribune, March 8th, 2018, <https://www.dhakatribune.com/business/2018/03/08/women-workforce-employment-without-empowerment> [Last Accessed: 22 August 2019].

<sup>8</sup> Bangladesh Bureau of Statistics, Statistics and Informatics Division, Ministry of Planning, *Labour Statistics in Bangladesh-An empirical analysis*, August 2018, p. 94.

<sup>9</sup> Bangladesh Bureau of Statistics, *Labour Force Survey*, Bangladesh 2016-17, January 2018.

democracy<sup>10</sup>. The unemployment rate declined from 6.4% to 6.3% in the 2017 to 2019 time-period, and stable unemployment is foreseen for 2019<sup>11</sup>. Though there is high female participation in Canada, women are under-represented in key manufacturing jobs, occupying 4.4% of jobs in industrial, electrical and construction trades, 4.5% of jobs in maintenance and equipment operation trades and 15.7% of jobs in machine operation<sup>12</sup>. Most women are well educated, as 53 and 48 percent of them possessed university qualifications (a bachelor's degree or higher) in 2017 and in 2018<sup>13</sup>, respectively. Moreover, according to a recent International Labour Organization/Gallup poll, 77 percent of Canadian women prefer to have a paid job rather than staying at home. Men also agree on this; 80 percent of them prefer women to be in employment<sup>14</sup>. The data indicates that women in Canada are more interested in engaging into productive sectors that have a potential impact on the country's socioeconomic context.

## 7. Reasons and Barriers for Women being under-represented in Certain Positions

*Awareness.* Societal awareness is one of the causes for women's underrepresentation in the labour market. Women's enablement depends on a range of factors including psychological, cognitive, economic, social and political dimensions (Stromquist, 1995). This indicates that empowerment is understood not only as an extrinsic control over resources (human, financial, intellectual), but also as a growing intrinsic capability, seen through greater self-confidence and an inner transformation of women's consciousness that enables one to overcome external barriers to accessing resources or changing traditional ideology (Sen and Batliwala, 2000). Research has also highlighted that self-confidence and self-esteem are essential 'first steps' to one's empowerment (Anderson, 1996; Claridge, 1996). According to NCBP (2000), women constitute almost half of the population in Bangladesh. Their status has

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<sup>10</sup> Gross domestic product ranking table (based on nominal GDP of nation-states in 2015), *The World Bank working paper*, 2015.

<sup>11</sup> *World Employment Social Outlook: Trends 2018*, International labour office: Geneva, ILO, 2018 p. 15.

<sup>12</sup> Mike Holden & Marie Morden, *Untapped Potential, Attracting and engaging women in Canadian manufacturing*, Summary paper, Canadian Manufacturers & Exporters' March 2017, p. 6-7

<sup>13</sup> Labour force survey estimates (LFS), by educational attainment, sex, and age group, annual, Statistics Canada, CANSIM Table 282-0004, January 2018. <https://www150.statcan.gc.ca/t1/tbl1/en/tv.action?pid=1410002001> [Last Accessed: 22 August 2019].

<sup>14</sup> *Towards a better future for women and work: Voices of women and men*, International Labour Organization and Gallup, March 8, 2017.

been ranked the lowest in the world on the basis of twenty indicators related to education, health, marriage, children, employment and social equality. Consequently, awareness is an important indicator of the psychological dimension of women's enablement in Bangladesh and in society as a whole. Educational gaps, the timing of marriage, sex bias, social and religion awareness are further barriers hampering women's development in Bangladesh.

*Education.* The education system in Bangladesh is mainly divided into three levels: primary education (Grade 1-5), secondary education (Grade 6-10), and upper secondary education. As far as primary education is concerned, the net enrolment rate reported an increase in the 2010 to 2015 time period<sup>15</sup>. Specifically, in 2010 the enrollment rate for boys and girls in primary education was 97.6 and 92.2, respectively, while in 2015 it reached 97.1 and 98.8. Though the net enrollment rate increased in 2015, in the same year the dropout rate in primary education for girl was reported at being 17%<sup>16</sup>, and was mainly due to financial distress. The situation is different in secondary education. In 2015, the net enrolment rate among women was 62.61%, but the dropout rate was 45.92%. The reason behind them leaving school was their engagement in housework. The dropout phenomenon is particularly evident in grade 8, because of financial issues and early marriages<sup>17</sup>. According to UNICEF, education in the early years of a child's life is the basic foundations to become an educated, socially aware, healthy and balanced individual to participate in, and contribute to the financial and social wealth of societies<sup>18</sup>. As for Bangladesh, there exists a marked gender disparity in primary, secondary and upper secondary education that needs to be eliminated. The Bangladeshi government is trying to impose compulsory attendance in primary school and good-quality education for both girls and boys. For women development, it is also necessary to increase the rate of enrolment in secondary and upper secondary education.

*Training.* Training is one of the most important components to maintaining gender equality in the industrial sector. It is a transformative process needed to acquire knowledge and techniques for developing skills. In addition, training is the process which helps a woman to change her approach to manage and retain their position. As of 2018, there were 3,596 active RMG factories in

<sup>15</sup> Bangladesh Bureau of Statistics, UCEP Bangladesh, *Education Scenario in Bangladesh: Gender Perspective*, February 17, p. 20.

<sup>16</sup> *Education Scenario in Bangladesh: Gender Perspective*, p. 23.

<sup>17</sup> *Education Scenario in Bangladesh: Gender Perspective*, p. 33.

<sup>18</sup> UNICEF, Why Early Childhood Development?, [https://www.unicef.org/earlychildhood/index\\_40748.html](https://www.unicef.org/earlychildhood/index_40748.html).

Bangladesh employing 3.5 million workers, 60.8% of whom were females and 39.2% males. According to a CPD<sup>19</sup> study, “only about 0.5% of managers in RMG enterprises are females, and only about 9.3% of HR managers in the RMG sector are females. On the production floor, of 60.8% women, most of them are employed in the sewing section (73.9%) and only a limited percentage of them works in the cutting section (22.7%)”. A gap thus exists between skilled and unskilled woman. That is why there is discrimination between men and woman. Training also affects wage differences between male and female workers. Bangladeshi women are not able to develop their skills because of a lack of training. Consequently, the wage divide is destined to increase, as women are not given the opportunity to review their skills and increase their technological literacy.

*Failure to Reconciliate Family and Professional Life.* Considering Bangladesh’s social norm and traditional scenario, women bear the heaviest burden when it comes to balancing work and family. More generally, women spend more time than men on family-related activities, working 4 times more than men in unpaid care activities at home<sup>20</sup>. According to the Time Use Pilot Survey 2012<sup>21</sup>, women spent more time in household work (3.6 hours) than men (1.4 hours). In addition, Section 94 of the Bangladesh Labour Act 2006<sup>22</sup>, specifies that in every establishment where 40 (forty) or more female workers are ordinarily employed, one or more suitable rooms shall be provided and maintained for their children who are under the age of 6 (six).

*Maternal health.* Maternity is one of the biological burdens that creates a substantial problem on women’s time. Therefore, pregnancy and child birth affect women’s ability to work and are considered as a key barrier for women’s participation in the labour market. This issue is evident not only in Bangladesh but all over the world. A recent study conducted in Denmark suggests that “women who are successfully treated by IVF (in vitro fertilization) earn persistently less because of having children” (Lundborg, Plug and Rasmussen,

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<sup>19</sup> Mostafiz Uddin, *Declining female participation in RMG sector: CPD Study*, May 8th, 2018 | CPD in the Media, CPD study citation, <https://cpd.org.bd/declining-female-participation-in-rmg-sector-cpd-study/> [CPD- Centre for Policy Dialogue].

<sup>20</sup> Esteban Ortiz-Ospina and Sandra Tzvetkova, *Working women: Key facts and trends in female labor force participation*, *Female-to-male ratio of time devoted to unpaid care work*, 2014 October 16, 2017, <https://ourworldindata.org/female-labor-force-participation-key-facts>.

<sup>21</sup> Bangladesh Bureau of Statistics, Statistics and Informatics Division, Ministry of Planning, Time Use Pilot Survey 2012, October 2013, p. 11.

<sup>22</sup> Amendment by the Bangladesh Labour Act 2010 & 2013.

2017,)<sup>23</sup>. It is also evident that most women have their contract terminated when they become pregnant or sent on leave without being paid. So they are compelled to work during the final stages of their pregnancy<sup>24</sup> or right after having given birth. Statistics show that 60% of working women reported concerns over long periods of separation from their children, especially breastfeeding mothers<sup>25</sup>.

As a consequence, both female workers and their children suffer and sometimes this state of affairs causes physical and mental consequences which affect individual capability, fitness and future development.

## 8. Conclusion

“Bangladesh’s Constitution has provided progressive and gender-friendly governance institutions for all Bangladeshi in general and for women in particular”<sup>26</sup>. The constitutional provisions (laid down in articles 19,27, 28(1), 28(2), 28 (3), 29(1), 29(2) and 40) cover many aspects regarding equal rights for men and women in public life, equal opportunities for all citizens irrespective their gender, also in the employment sphere. These provisions contain fundamental principles to ensure gender equality by providing human dignity in society. It is a prerequisite for a brighter and successful future, which lays the foundations for younger generations and tackles gender discrimination. It is also important to increase societal awareness of the issue; to change the approach about women’s role in society; to increase women’s labour force participation and to raise women’s productivity in high-skilled occupations.

To remove the barriers for woman participation and gear up women participation, it is vital to change attitudes towards women that can affect gender outcomes in work and in society. There is a strong link between societal attitudes that limit women’s potential and gender-equality outcomes in different sectors<sup>27</sup>. Education is another central theme to help more and more women to enter the labour force and improve employment opportunities. The latter increase women’s bargaining power and reduce males’ economic burden. Education can also promote a new cultural approach concerning the value of

<sup>23</sup> Lundborg, P., Plug, E., & Rasmussen, A. W. (2017). Can Women Have Children and a Career? IV Evidence from IVF Treatments. *American Economic Review*, 107(6), 1611-1637.

<sup>24</sup> War on Want (August 2011), *STITCHED UP; Women workers in the Bangladeshi garment sector* - <https://waronwant.org/sites/default/files/Stitched%20Up.pdf> [last access: 22 August 2019].

<sup>25</sup> Ibid.

<sup>26</sup> Osman Ali, *Constitution and gender rights*, EDITORIAL,1 October, 2016, <http://www.theindependentbd.com/printversion/details/62146>.

<sup>27</sup> 2010–14 *World Values Survey*. See WVS Wave 6 (2010–2014), (<http://www.worldvaluessurvey.org/WVSDocumentationWV6.jsp>).

women in society. In this regard, higher education institutions can encourage woman to engage in labour activities and prepare them for future development and growth. Like Canada, devising initiatives favouring education, training and skill development can help women to promote themselves for high and skilled professions. To remove inequality in society and garner significant economic benefits, it is key to attracting, retaining, and advancing women, raising awareness in society. This can also help women have more free time to spend in the workforce, in activities that benefit society, at home, or in other tasks of their choice. By a fairer redistribution of unpaid work, women could contribute to the family income and pursue training and education that increase their earning potential and boost their confidence, helping them to achieve high-skilled occupations. In addition, increasing women's participation in the labour market enables the government and other private sector institutions to create affordable, high quality, fully inclusive child care facilities, which in turn create further job opportunities for women. In order to redistribute unpaid house work equally between men and women, the former should be also encouraged to take paternity leave. In Bangladesh there is no provision regarding paternity benefit or leave, so it should be included in the Bangladesh Labour Act. More flexible working hours could also help women to strike a balance between family and professional life. Professionals appointed by the government (e.g. labour inspectors) can ensure employers comply with their obligations, conduct audits, inspections and surveys. In conclusion, women can contribute greatly to Bangladesh's growth and development. Yet this is only possible if their rights and dignity as humans are preserved, meaning they should not be seen only as housekeepers.

# Challenges Besetting the Sustainability of Higher Education in Nigeria: The Case of the University of Lagos

Christopher Odogwu Chidi<sup>1</sup>

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## Abstract

**Purpose:** This study examined the mandate of the Nigerian University System and investigated the challenges bedevilling the sustainability of higher education in Nigeria using the University of Lagos as a case study.

**Design/methodology/approach:** The author adopted the survey research design. Primary data obtained from the respondents were analysed using descriptive statistics, and relative importance index. Secondary data were obtained from the National Universities Commission Reports as well as the review of relevant literature.

**Research implications:** The findings of the study revealed that higher education in Nigeria is faced with a myriad of challenges and the working conditions of academics leave much to be desired.

**Originality/value:** This study brings to the fore the challenges confronting higher education in Nigeria which if not well addressed will adversely affect the sustainability of higher education in Nigeria and the realisation of the mandate of the Nigerian University System (NUS).

**Paper type:** Quantitative/ Empirical

**Keywords** – *Sustainability, Development, Higher Education, University of Lagos, Nigeria*

## 1. Introduction

Higher education in Nigeria includes universities, polytechnics and colleges of education. Education constitutes the foremost instrument for sustainable human development and the fulcrum around which every other activity gyrate; as countries which have recorded remarkable accomplishments technologically relied on the instrumentality of education (Boyi, 2014). Higher or tertiary education especially at the university level is an instrument for empowering

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<sup>1</sup> Department of Employment Relations & Human Resource Management, Faculty of Management Sciences, University of Lagos. Email: ochidi@unilag.edu.ng.



people and as a means for positive social change. Globally, education is considered a means to good quality of life, socio-economic upliftment of society and an effective tool for technological innovations and transformations (Nnokam & Sule, 2017). The significance of education to individual and societal development is further accentuated by the United Nations Educational, Scientific and Cultural Organisation (UNESCO). According to UNESCO, member countries should ensure that at least 26 per cent of their annual budgets is devoted to education. Nigeria is a member of UNESCO but regrettably; over the years, the 26 per cent has never been devoted to the educational sector. Historically, university education in Nigeria dates back to 1948 with the establishment of the University College, Ibadan (NUC, 2018). The first generation universities established between 1948 and 1974 were the outcome of the recommendations of Elliot (1943) and Ashby (1959) Commissions (Fafunwa, 1971; Fajana, 2018). The first generation universities comprise University of Ibadan (1948), University of Nigeria, Nsukka (1960), University of Ife (now Obafemi Awolowo University (1962), the University of Lagos (1962), and Ahmadu Bello University (1962). University of Ibadan started as a campus of the University College London. Education and development are part and parcel of Sustainable Development Goals (SDGs). The World Commission on Environment and Development also known as Brundtland Commission (1987, p.43) defined sustainable development as “development that meets the need for the present without compromising the ability of future generations to meet their own needs.” In this study, sustainable development in higher education in Nigeria is conceived as comprising better quality teachers and pedagogy, better product quality, conducive learning environment, reduction in the incidence of strikes, global competitiveness, research and innovations, host community and societal development, corruption-free educational system as well as international exchange programmes to name a few. Sustainable Development Goal 4 borders on ensuring inclusive and equitable quality education and the promotion of lifelong learning opportunities for all. Sequel to the expiration of the implementation timeline of the Millennium Development Goals (MDGs), which came to an end in 2015, the international community through the United Nations in collaboration with the Heads of States and Governments of the 193 member countries, launched the Sustainable Development Goals (SDGs) as a new development agenda. This agenda, also known as Agenda 2030, is framed into 17 Goals. Nigeria, being one of the countries that ratified and adopted the Agenda for implementation in September 2015, proceeded immediately to domesticate it. The 17 Sustainable Development Goals are depicted in Table 1.1 in the appendix.

However, to achieve these goals the role of education is critical. Specifically, to achieve goal 4 which borders on ensuring inclusive and equitable quality

education and promotion of lifelong learning opportunities for all, the role higher education and academics are paramount. From the foregoing, it is apparent that the Sustainable Development Goals (SDGs) are hinged on improving the well-being of people globally and academics in Nigeria are no exception. The objective of this study is to examine the mandate and investigate the challenges of the Nigerian University System (NUS) using the University of Lagos as the unit of analysis.

## 2. Literature Review

This section examines the mandate and challenges of the Nigerian University System. The mandate for Nigerian universities as enumerated in the NUC (2018, p.50) report include:

### *a) Contribute to National Development through high level relevant Manpower Training*

How far the mandate has been achieved remains one of the issues this study intends to investigate. This mandate cannot be realised with inadequate number and quality of academics as well as other staff delivering quality. One of the means of achieving quality academic staff is through continuous updating of skills through training and retraining at all levels to improve their attitude, skill and knowledge (ASK) and to keep academics abreast of latest developments and techniques in their fields of specialisation. This has become imperative in view of the global, dynamic and competitive environment universities operate and to keep pace with advances in Information and Communication Technology (ICT). According to Kuan Chung Tzu, (as cited in Ojo 1998, p. 211) “if you wish to plan for a year sow seeds, if you wish to plan for ten years plant trees, if you wish to plan for a lifetime develop men”. Thus, the dearth of human capital is not one of numbers, but a scarcity of trained people with adequate and up-to-date skills and knowledge.

According to the NUC (2018) report, globally, the role of teachers in the university system is recognised as crucial in realising academic goals designed to advance learning and overall quality of university education. Academics are pivotal to the running of an effective and efficient university system and central to driving research and learning improvements in universities. The right representation of academics in the university system both in terms of quantity and quality is a *sine qua non* for instituting quality and standards in the Nigerian university system as no educational system can rise above the quality of its teachers (NUC, 2018). To a very large extent this mandate has been achieved in view of the calibre of trained manpower at various sectors of the economy including the academia.

*b) Develop and inculcate proper Values for the Survival of the Individual and Society*

Societal values are partly propagated via the educational system. To a large extent this mandate has been realised by higher education in Nigeria. Higher education is meant to provide a favourable teaching, learning, research and development environment as well as moulding and remoulding character of individuals. There is a maxim that a country's level of development depends on the calibre of its people and academics are the leading lights of any society. The National Policy on Education (FGN, 2013), as cited in Oyebade (2018), posits that no country can rise above the level of its educational system. The immense contributions of academics to sustainable development of any society or institution therefore cannot be ignored.

*c) Develop Intellectual Capability of Individuals to Understand and Appreciate their Local and External Environments*

Higher education develops the intellectual capacity of an individual with a view to improving their knowledge of local and external environments. This mandate has been achieved to a very large extent by higher education institutions in Nigeria.

*d) Acquisition of Physical and Intellectual Skills which will enable Individuals to be Self-Reliant and useful members of the Society*

Higher education instills physical and intellectual skills in an individual with a view to making them self-reliant and useful members of the society. This mandate has been achieved to a very large extent by higher education institutions in Nigeria.

*e) Promote and Encourage Scholarship and Community Service*

Higher education and academics are critical to as they are the fountain of knowledge in any society. Academics constitute the ultimate basis of the wealth of nations and pivotal to the growth and survival of higher education. The primary roles of academics the world over are teaching, research and community service to humanity. This mandate has been largely achieved by the Nigerian University System (NUS).

*f) Promotion of National and International Understanding and Interaction*

Higher education in Nigeria is expected to forge and cement national unity and to promote national and international understanding and interaction. To a large

extent this mandate has been realised. The National Youth Service Corps is a scheme set up by the Nigerian government to involve Nigerian graduates in nation building and the development of the country. The scheme was introduced in 1973 and has promoted national unity and integration. International collaboration and memoranda of understanding have been entered into by many universities in Nigeria with numerous universities abroad as well as international exchange programmes. The National Universities Commission (2018) report on rapid revitalisation of university education in Nigeria (2019-2023) has identified the under-listed challenges confronting the Nigerian university system and by extension academics in rank order as follows:

*a) Inadequacies in facilities for teaching, learning and research*

Facilities for teaching, learning and research such as classrooms, lecture theatres, laboratories, workshops and staff offices are grossly inadequate. With Tertiary Education Trust Fund (TETFund) interventions, there seems to be some improvements in these facilities. With the upsurge of enrollment figures in higher education institutions in Nigeria, some of these facilities have been over stretched and are poorly maintained.

*b) Inadequate funding*

At the higher education level, governments at the Federal and State levels also bear most of the responsibilities for maintaining public institutions. This is because no tuition fees are charged at especially the undergraduate levels. There is also a special funding vehicle (Tertiary Education Trust Fund (TETFund)) for public higher institutions derived from 2% of profits of companies in the country. There has been a progressive decline in the allocations to education at all levels. This is indicated by especially the Federal Government budgetary provision for education covering the periods 2014 to 2017 as shown in Table 2.1.

*Table 2.1: Federal Allocation to Education 2014-2017*

Federal Allocation to Education 2014-2017 (N Billion)			
2014	2015	2016	2017
495.2	492.03	403.2	398.6

Source: National Universities Commission Report (2018)

The Academic Staff Union of Universities (ASUU) as a trade union organisation has been the vanguard in the struggle for the welfare and working conditions of academics in the Nigerian university system including funding of higher education by the government at the state and federal levels. The primary role of any trade union organisation is to improve the welfare conditions of their members. According to Nkirote and Kiiru (2018), trade unions' core objectives are to improve the welfare of their members by negotiating high earnings for their members, bettering their conditions of service, and increasing job tenure of members. Webb and Webb (1920, p.1) define a trade union as "a continuous association of wage-earners for the purpose of maintaining or improving the conditions of their working lives." Some of the terms of reference in the re-negotiation of the 2009 agreement between ASUU and the Federal Government are to reverse the brain drain, not only by enhancing the remuneration of academic staff, but also by disengaging them from the encumbrances of a unified civil service wage structure; as well as to restore Nigerian universities, through immediate, massive and sustained financial intervention *inter alia*.

However, the non-implementation of various agreements reached between ASUU and the Federal Government has always led to incessant strikes. As observed by Hassan (2014), strikes have also taken place in tertiary institutions in Nigeria over non-implementation of welfare programmes and non-implementation of 2009 agreement reached with the Academic Staff Union of Universities for their members. Thus, the issue of inadequate funding remains the bane of higher education in Nigeria.

*c) Deficits in teacher quality and quantity (including quality of Professors)*

The NUC (2018) report revealed that in 2016, there were 50,608 teachers in the Nigerian University System (NUS), which represents less than 70 per cent of actual need based on number of programmes, staff-mix and student enrollment. Of this number, 16.2 per cent are female and about 10 per cent are in the full-professorial cadre. The ratios by discipline were not encouraging particularly in the humanities and some science-based disciplines such as, Optometry, ICT and Architecture. The report also found that in the same 2016, there was a total of 102,213 non-academic staff in Nigerian universities. This means that the number of non-academic staff far exceeds the number of academic staff in Nigerian universities.

*d) Governance deficits (including stemming the tide of strikes)*

A review of the governance structures and processes in the Nigerian university system reveals a worrisome situation, characterised by underperformance, inefficiency, conflicts, poor leadership, and profound parochialism.

*e) Depressed quality of graduates*

The quality of graduates being turned out from some higher education institutions in Nigeria annually leaves much to be desired with many not too fit for the world of work. This has led to the call in some quarters on the need to review the curricula of the Nigerian University System. The National Universities Commission is doing magnificently well in this regard.

*f) Inadequacies in access*

Admission into tertiary education in Nigeria is competitive to a large extent owing to the limited carrying capacities of universities. On annual basis, millions of candidates sit for the Unified Tertiary Matriculation Examination (UTME) in addition to the post- UTME examinations in a bid to be admitted into universities. Many candidates sit for these examinations many times and some get frustrated after a prolonged period spent in sitting for these examinations without success despite possessing sound high school or secondary school certificates and above average scores in the (UTME and the post- UTME examinations.

*g) Deficiencies in research*

Research is at the root of innovation and a virile and productive research system will stand the nation in good stead in the drive towards socio-economic development. Research in the Nigerian University system does not seem to be enjoying the attention and organisation it deserves. Across the system, there are only a few universities that understand and have internalised the practice of good research governance. For instance, records at NUC indicate that less than 50 of the 161 universities in Nigeria have research directorates with appropriately qualified personnel and well organised systems and sub-systems to coordinate and manage research planning and administration (including research policy, grant writing) , Intellectual property and Technology transfer issues. This accounts largely for why it is virtually impossible for most universities to win competitive grants as no serious funding entity would award grants to researchers in universities without well established and functional research governance ecosystems.

*h) Official corruption and other social vices*

Official corruption in higher education in Nigeria as elsewhere in other sectors is alarming and this has infected not just the educational sector but also the very fabric of the Nigerian society as a cankerworm. Given this situation, even with the best of funding profile, resources are bound to be squandered, stolen, misapplied or spent on misplaced priorities. The current fight against corruption by the Buhari's administration is a welcome development but not much has been achieved in this regard.

*i) Regulation by National Universities Commission (NUC) and professional bodies*

The NUC is the regulatory agency responsible for the development of University Education in Nigeria and has the mandate to maintain standards in the Nigerian University system. The mandate of the National Universities Commission (NUC) was essentially advisory at inception in 1962, but has since expanded over the years as a statutory body with both regulatory and quality assurance functions. The federal government has established 41 conventional and specialised universities. State owned universities are now 46, while private universities grew from 3 in 1999 to 74 in 2018. On the whole, there are 161 universities today. The phenomenal increase (75%) in the number of universities took place in the last two decades. Consequently, the responsibilities of the Commission have significantly increased, with the attendant pressure on its regulatory and quality assurance functions with the preponderance of universities in Nigeria. The increase in the number of universities in Nigeria, particularly State and Privately-owned has exerted a great deal of pressure on the quality assurance and regulatory activities of NUC.

*Table 2.2: Number of Universities in Nigeria by Year*

Year	Federal	State	Private	Total
1992	25	11	0	36
1999	25	13	3	41
2018	41	46	74	161

Source: National Universities Commission (2018)

*j) Promoting Information and Communication Technology (ICT) driven universities*

Currently, higher education is driven by technology globally. In spite of advances in technology specifically Information and Communication Technology (ICT), the human factor is still necessary as computerised systems cannot be substitutes for human beings. Academics will always be needed to

drive technology and create technology. Various stakeholders' engagements, surveys and analysis of the state of ICT in Nigerian Universities have been carried by the NUC, Universal Service Provision Fund (USPF), National Information Technology Development Agency (NITDA), TETFund (Needs assessment survey), etc. The results all point to the fact that the state of ICT (knowledge, infrastructure, services and application) fall short of world class standard. The state of ICT infrastructure is also largely very poor, ranging from poor state of Campus Network Infrastructure to Campuses interconnectivity infrastructure, Data centre Infrastructure, internet bandwidth, as well as poor power supply.

#### *k) Fostering skills development and entrepreneurship*

According to Okafor (2011), many educational institutions in Nigeria lack the curricula that would enable graduates to acquire technical as well as entrepreneurial skills to become job creators rather than job seekers. In this regard, it is interesting to note that Joseph Ayo Babalola University (JABU) which is a privately owned University has taken the lead as the first University in Nigeria to be accredited by the National Universities Commission (NUC) to award degrees in Entrepreneurship.

#### *l) Gender issues*

There is gender imbalance in Nigerian universities with more male students enrolled than females. Also, in the area of staffing, there are more male academic staff than female academic staff.

*Table 2.3: Gender Balance in Federal Universities in Nigeria 2017*

	Male (%)	Females (%)	Total	Gender Gap M/F	Gender Disparity Index F/M
Undergraduates	744,713 (59.1%)	515,697 (40.9%)	1,260,410	1.44	0.69
Academic Staff	27923 (75.2)	9196 (24.8)	37,119	3.04	0.33

Source: NUC Statistics (2018).

In furtherance of highlighting the challenges of the Nigerian University System, the present study carried out a survey of some of the challenges



confronting the academic staff in Nigerian universities with a focus on the University of Lagos based on the following issues:

*a) Career Progression/ Advancement*

Career progression or advancement is concerned with upward mobility. Rao (2005) views promotion as an upward movement of an employee from current job to another that is higher in pay, responsibility and organisational level. Promotion is an advancement or upward movement of an employee within an organisation to a position of greater authority and responsibility, more prestige and status as well as increased pay. Respondents to the survey expressed the desire for the University of Lagos to change the current policy on promotion based on a minimum of 3 years duration to reward hardworking academics. Respondents that hold this view represents 90.2 % with Relative Importance Index (RII) of 0.851. Respondents also observed that the period of confirmation of academic staff is too long, de-motivating and should not be based on acquisition of doctoral degree. Those that hold this opinion represents 76.5 % with RII of 0.806. Respondents observed that there is cumbersomeness in the University promotional system. Of the total respondents, 73.3% hold this view with RII of 0.751.

*b) Compensation/Reward*

Compensation/reward refers to the totality of both the financial and non-financial rewards that an employee receives in return for his/her labour or services to an employer or organisation. It includes the basic pay, incentives and numerous financial and non-financial benefits (Banjoko, 2006). "Compensation is what employees receive in exchange for their contribution to the organisation" (Pattanayak, 2010, p.284). The three components of compensation identified by Flippo (1984, p.281) include: "basic wage or salary (to attract qualified candidates); variable compensation (to motivate job performance); and supplementary fringe benefits (to retain talented staff)". The essence of sound remuneration policies therefore is to attract, motivate and retain skilled staff. Respondents to the survey were of the opinion that they were not satisfied with their pay as an academic. This represents 83.7 % of the respondents. In the same vein, respondents were of the opinion that they were paid their monthly salaries at regular intervals but that their salaries were meagre to meet their families' monthly needs. This represents 79% of the respondents with RII of 0.785. Similarly, 88.8 % of the respondents were of the view that their salaries were not commensurate with their qualifications. These conditions have implications for academics' attraction, motivation and retention in the Nigerian University System (NUS).

*c) Health, Safety and Security*

The terms health, safety and security are closely related (Mathis & Jackson, 2004). Health is the general state of physical, mental and emotional well-being. A healthy person/employee is free of illness, injury or mental and emotional problems; which may impede or adversely affect normal human functioning/activity. Safety refers to protecting the physical well-being of people at work. The main purpose of effective safety programmes in organisations is to prevent work-related accidents and injuries (Mathis & Jackson, 2004). Security refers to protecting employees and organisational facilities. With the increase in workplace violence, security at work has become necessary (Mathis & Jackson, 2004). In a circular issued by the Chairperson of Academic Staff Union of Universities, University of Lagos branch dated the 16<sup>th</sup> October, 2018; it was revealed that the report of a recently conducted survey at the University's health centre shows that majority of academics are battling with severe health conditions such as high blood pressure, diabetes and other serious ailments which are not unconnected with the kind of work pressure academics are subjected to on yearly basis. Arising from the present survey, 72.2% of the respondents were of the view that there is the need to improve on the National Health Insurance Scheme (NHIS) with regard to scope and illnesses covered. Of the total number of respondents 80.5% agreed that the security situation in the University needs a total overhaul. Currently, there exists security surveillance 24/7 with CCTV cameras at various locations on campus. Respondents were of the view that yearly health screening is mandatory for academics in the University of Lagos. This represents 95.3 % of the respondents.

*d) Learning and Development*

Armstrong (2006) posits that learning and development is concerned with improving an individual's performance in their present roles and preparing them for greater responsibilities in the future via the inculcation of skills, attitudes and knowledge. Of the total number of respondents to the survey, 74.3% were of the view that the University of Lagos does not have the train-the-trainers programme to keep academics abreast of latest developments in their field/profession. However, the University of Lagos academics are given the opportunity to attend learned national and international conferences sponsored by the University.

*e) Office Accommodation*

Office accommodation or office space is provided for workers to enable them to carry out their duties in a conducive and decent work environment and has a motivating effect on academics. From the survey results, it was found that 82.3% of respondents were not satisfied with the condition of their offices as an academic staff. While 79.8 % of the respondents disagreed that they have decent and well-equipped offices as an academic staff.

*f) Staff Residential Accommodation*

Staff residential accommodation or abode refers to shelter provided for workers within or around the place of work to reduce their work stress and to enhance their job performance. It was found from the survey that few academics live on campus. With respect to staff residential accommodation, 81.2 % of the respondents were of the view that there is no provision for house ownership scheme for academics in the University of Lagos as many live off campus and as far as adjoining states such as Ogun and Oyo states. Many academics live in Ibadan-Oyo state; Abeokuta, Iyana-Iyesi, Ota, Magboro, Samawa, Mowe-Ibafo, Ogiyo all in Ogun state as well as those living in remote areas of Lagos state such as Badagry, Ojo, Ikorodu, Alimosho and Epe/Ajah.

*g) Staff Performance Appraisal System*

Performance appraisal can be defined as the formal assessment and rating of individuals by their managers at usually an annual review meeting. According to Kandula (2011, p.5), “performance appraisal system is often confused with performance management and mostly misunderstood as synonymous. Performance appraisal is a singular activity that is employed to assess performance of employees for a predetermined duration on a set of parameters”. Performance management is viewed as an activity of goal setting and monitoring achievement of goals. According to Briscoe and Claus (2008), performance management is the system through which organisations set work goals, determine performance standards, assign and evaluate work, provide performance feedback, determine training and development needs and distribute rewards. The result of the survey indicated that in the University of Lagos, there is open as against secret appraisal system with 68.5 % of the respondents agreeing to this statement. This may not be the case in some other universities in Nigeria. The above named challenges are surmountable if the relevant stakeholders can proffer strategies and interventions to address the challenges which will no doubt usher in sustainable development of higher education and quantum leap in the Nigerian University System (NUS).

### *b) Sustainable Development of Higher Education in Nigeria*

In this study, sustainable development of higher education in Nigeria is conceived as comprising better quality teachers and pedagogy, better product quality, conducive learning environment, infrastructure and continuous maintenance, reduction in the incidence of strikes, global competitiveness, research and innovations, adequate funding, massive deployment of ICT in teaching, host community and societal development, corruption-free educational system as well as international exchange programmes in the Nigerian university system.

## **3. Research Methodology**

### *a) Area of Study*

The University of Lagos is located in South-Western Nigeria; and was established by an Act of Parliament in 1962. The University of Lagos was chosen as the unit of analysis, in view of its location in Lagos state which is considered the centre of excellence. Lagos state is characterised by rapid urbanisation and has acquired the mega-city status as a result of its huge population. The slogan of the University is “The University of First Choice and the Nation’s Pride.” The mission of the University is to provide a favourable environment for teaching, learning, research and development, where staff and students will interact and compete effectively with their counterparts globally. The vision of the University is to be a top class institution for the pursuit of excellence in knowledge, character and service to humanity. The motto of the University is “Indeed and in Truth.” The core values of the University are:

- i. Commitment to excellence in learning and character
- ii. Conducive and friendly learning environment
- iii. Integrity and respect
- iv. Continuous improvement of staff professionalism and competence
- v. Commitment to continuous improvement of all facilities
- vi. Enforcement of innovative culture and ethical conduct

Of the 12 Faculties in the University, eight (8) are located at the main campus at Akoka; while four (4) of the Faculties comprising Basic Medical Sciences, Clinical Sciences, Dental Sciences and Pharmacy are located at the College of Medicine Idi-araba and the School of Radiography at Yaba. The Faculties surveyed include:

- i. Faculty of Arts
- ii. Faculty of Management Sciences
- iii. Faculty of Education

- iv. Faculty of Engineering
- v. Faculty of Environmental Sciences
- vi. Faculty of Law
- vii. Faculty of Pharmacy
- viii. Faculty of Science
- ix. Faculty of Social Sciences
- x. Faculty of Basic Medical Sciences
- xi. Faculty of Clinical Sciences
- xii. Faculty of Dental Sciences

#### *b) Research Design and Participants*

The research design used is the survey method which is amenable to the quantitative research method. As of the time of conducting this study, the population of academic staff in the University of Lagos stood at 1,722 consisting of 1,372 academic staff at the main campus and 350 academic staff at the College of Medicine (HRIS/HRM Dept. UNILAG, 2019). Participants for the study were academic staff of the University of Lagos, drawn from the main campus at Akoka, and College of Medicine at Idi-araba. Participants cut across the Distance Learning Institute, 12 Faculties of the University as well as the main Library. A total of 450 participants were randomly drawn from the target population using the simple random sampling. Four hundred and fifty copies of questionnaire were administered to participants using the platform of the Academic Staff Union of Universities, University of Lagos Branch Congress as well as personal administration of research instrument to academic staff in their offices. Of this number, 284 copies of questionnaire were returned. However, 277 were properly completed and used for data analyses. This represents 62 per cent response rate.

#### *c) Instrumentation and Validation*

The instrument was designed using opinion and factual questions or categorical questions. The Likert 4-point scale ranging from strongly agree (4) to strongly disagree (1) was adopted for opinion questions to elicit information from respondents. The research instrument was subjected to validity and reliability testing. The domain of validity also called intrinsic validity was used for the validity estimate. The domain of validity was obtained by calculating the square root of reliability (Guilford, 1954; Uwaoma, Udeagha & Madukwe, 2011). Validity estimate is 0.81 while the Cronbach's Alpha is 0.66 being the reliability coefficient of the instrument. An alpha level of 0.70 and above is generally considered satisfactory internal consistency (Nunnally, 1978; Cronbach, 1951). However, Asika (2004) argues that a value of 0.60 and below

suggests unsatisfactory internal consistency. In this study, the reliability coefficient exceeded the minimum threshold.

#### *d) Sources of Data & Methods of Data Analyses*

Secondary data were obtained from the National Universities Commission Reports as well as the review of relevant literature. Primary data obtained from the respondents were analysed using descriptive statistics and relative importance index. Descriptive data analyses were done with the aid of the Statistical Product and Service Solutions (Ho, 2006); formerly Statistical Package for the Social Sciences (SPSS) software version 20. Frequency distribution showing absolute frequencies and relative frequencies or percentages was adopted. The Relative Importance Index (RII) was used to further analyse the data. The 4-point Likert scale was converted to Relative Importance Index for each variable, in order to rank and compare the relative importance of each of the variables as perceived by the respondents. The Relative Importance Index (RII) was formulated using the following statistical equation:

$$RII = \Sigma W / AxN = \frac{4n_4 + 3n_3 + 2n_2 + 1n_1}{4N}$$

Where  $0 \leq (RII) \leq 1$ : the  $\Sigma W$  = Sum of weights as assigned on the Likert scale. A= highest weight. N= total number in the sample or total respondents to the survey.

## 4. Results and Interpretation

*Table 4.1: Demographic and Social Indicators of Respondents*

S /N	Variables	Absolute Frequency	Relative Frequency
1.	<b>Gender of Respondents</b>		
	Male	186	67.1
	Female	91	32.9
2.	<b>Age of Respondents</b>		
	Less than 30 years	9	3.2
	30-39	51	18.4
	40-49	98	35.4
	50-59	107	38.6
	60-70	12	4.3
3.	<b>Marital Status</b>		
	Married	259	93.5
	Single	17	6.1
	Widow	1	.4

	Divorced	-	-
	Separated	-	-
<b>4.</b>	<b>Highest Academic Qualification</b>		
	First degree	-	-
	Master's degree	51	18.4
	Ph.D. degree	226	81.6
	Professional Certification	-	-
	Others (Pls. specify)	-	-
<b>5.</b>	<b>Length of Service in the University of Lagos</b>		
	1-5 years	65	23.5
	6-10 years	106	38.3
	11-15 years	39	14.1
	16-20 years	19	6.9
	21years and above	48	17.3
<b>6.</b>	<b>Status of Respondents in the University of Lagos</b>		
	Professor	28	10.1
	Associate Professor	10	3.6
	Senior Lecturer	77	27.8
	Lecturer I	59	21.3
	Lecturer II	66	23.8
	Assistant Lecturer	36	13.0
	Graduate Assistant (GA)	1	.4
<b>7.</b>	<b>Are you accommodated in the University's Staff Quarters?</b>		
	Yes	41	14.8
	No	236	85.2
<b>8.</b>	<b>Area of abode of Respondents that is where they live</b>		
	i. On Campus	41	14.8
	ii. Lagos Mainland/ Yaba/Ebute-Metta	16	5.8
	iii. Lagos Island/ Victoria Island/ Marina	-	-
	iv. Epe / Ajah	23	8.3
	v. Apapa	-	-
	vi. Amuwo-Odofin/ Festac	23	8.3
	vii. Badagry	1	.4
	viii. Ojo/Okoko-maiko	7	2.5
	ix. Agege	2	.7

x.	Oshodi /Isolo	1	.4
xi.	Ikorodu	17	6.1
xii.	Ajeromi/Ifelodun	7	2.5
xiii.	Kosofe/Ojota/ Ketu/ Ojodu/ Berger/ Mile 12	26	9.4
xiv.	Shomolu/ Gbagada/ Oworoshoki	58	20.9
xv.	Ifako/Ijaiye/ Iyana Ipaja	8	2.9
xvi.	Ikeja	1	.4
xvii.	Eti-osa/ Ikoyi	-	-
xviii.	Alimosho/ Ikotun- Egbe /Ijgun	1	.4
xix.	Mushin	1	.4
xx.	Surulere	22	7.9
xxi.	Ibeju- Lekki	-	-
xxii.	Outside Lagos (Pls specify)	22	7.9
<b>9. Hours spent on daily basis to commute to and fro work</b>			
	Less than 1 hour	100	36.1
	1-2 hours	46	16.6
	3-4 hours	57	20.6
	5-6 hours	60	21.7
	7 hours and above	14	5.1

Source: Field Survey, 2019

Table 4.1 shows the demographic and social characteristics of respondents. Of the 277 respondents to the survey, there are 186 male representing 67.1 per cent; while 91 are female representing 32.9 per cent. With respect to age of the respondents, 92.4 per cent of the respondents were between 30 and 59 years of age. Regarding the marital status of the respondents, 93.5 per cent were married, 6.11 per cent were single while 0.4 per cent represents widow. As regards the highest academic qualification, while 81.6 per cent have Ph.D. degrees; 18.4 per cent of the respondents have Master's degrees. With respect to status in the University, 72.9 per cent of the respondents were Lecturer I, II and Senior Lecturers. Professors and Associate Professors represent 13.7 per cent; while Assistant Lecturers and Graduate Assistants represent 13.4 per cent. Respondents who live in the University staff quarters represent 14.8 per cent; while 85.2 per cent of respondents were not accommodated in the University staff quarters. This implies that while 14.8 per cent live on campus,



85.2 per cent live outside campus. Of this, 7.9 per cent live outside Lagos state notably, Ibadan-Oyo state; Abeokuta, Iyana-Iyesi, Ota, Magboro, Samawa, Mowe-Ibafo, Ogijo all in Ogun state. Some of the respondents live in remote areas of Lagos state such as Badagry, Ojo, Ikorodu, Alimosho and Epe/Ajah.

*Table 4.2: Faculty of Respondents*

10.	Faculties	Frequency	Percentage
	i. Faculty of Arts	26	9.4
	ii. Faculty of Management Sciences	69	24.9
	iii. Faculty of Education	19	6.9
	iv. Faculty of Social Sciences	30	10.8
	v. Faculty of Law	10	3.6
	vi. Faculty of Engineering	39	14.1
	vii. Faculty of Science	12	4.3
	viii. Faculty of Environmental Sciences	7	2.5
	ix. Faculty of Pharmacy	12	4.3
	x. Faculty of Clinical Sciences	7	2.5
	xi. Faculty of Basic Medical Sciences	21	7.6
	xii. Faculty of Dental Sciences	4	1.4
	xiii. Distance Learning Institute	8	2.9
	xiv. Main Library	13	4.7
	<b>Total</b>	<b>277</b>	<b>100</b>

**Source:** Field Survey, 2019

Table 4.2 shows the faculties of respondents, with 66.1 per cent of the respondents emanating from Faculties of Management Sciences, Engineering, Social Sciences, Arts and Education.

*Table 4.3: Challenges of Academics in the Nigerian University System*

S/ N	Variables	N	SA 4	A 3	D 2	SD 1	RII	RAN K
<b>A</b>	<b>Career Progression/ Advancement of Academics</b>							
<b>11</b>	My career progression has been seamless ever since I joined the service of the University of Lagos	27	12	102	108	55	0.56	7
		7	4.3%	36.8%	39%	19.9%	4	

<b>12</b>	I have benefitted from the services of career guidance/ counselling unit of the University	27 7	1 0.4%	21 7.6%	122 44%	133 48%	0.40 1	9
<b>13</b>	I have always been promoted to the next grade level within the stipulated period of three years as contained in the current University promotion policy	27 7	23 8.3%	70 25.3%	86 31%	98 35.4%	0.51 6	8
<b>14</b>	There is cumbersomeness in the University promotional system	27 7	78 28.2%	125 45.1%	71 25.6%	3 1.1%	0.75 1	3
<b>15</b>	I have been victimised in the system with respect to delay in promotion for no just cause	27 7	47 17%	71 25.6%	66 23.8%	93 33.6%	0.56 5	6
<b>16</b>	My promotion comes as and when due without any form of lobbying	27 7	30 10.8%	105 37.9%	79 28.5%	63 22.7%	0.59 2	5
<b>17</b>	Promotion in the University is based on organisational politics	27 7	22 7.9%	192 69.3%	57 20.6%	6 2.2%	0.70 8	4
<b>18</b>	There is the need to change the current policy on promotion based on a minimum of 3 years duration to reward hardworking academics.	27 7	156 56.3%	94 33.9%	10 3.6%	17 6.1%	0.85 1	1
<b>19</b>	The period of confirmation of academic staff is too long, de-motivating and should not be based on acquisition of doctoral degree	27 7	154 55.6%	58 20.9%	38 13.7%	27 9.7%	0.80 6	2
<b>B</b>	<b>Compensation/Reward of Academics</b>	<b>N</b>	<b>SA</b>	<b>A</b>	<b>D</b>	<b>SD</b>	<b>RII</b>	<b>RAN</b>
<b>20</b>	I receive substantial financial reward for	27 7	9 3.2%	10 3.6%	50 18.1	208 75.1	0.33 8	13

	displaying extra efforts in teaching and research				%	%		
21	I am praised by my HOD whenever I accomplish the tasks assigned to me	27 7	35 12.6%	83 30%	72 26%	87 31.4%	0.56 0	3
22	I am given recognition for excellent job performance	27 7	10 3.6%	64 23.1%	109 39.4%	94 33.9%	0.49 1	4
23	There is equitable distribution of share of profit / internally generated revenue among academic staff	27 7	25 9%	29 10.5%	113 40.8%	110 39.7%	0.46 3	5
24	I am paid my monthly salary at regular monthly intervals	27 7	137 49.5%	95 34.3%	28 10.1%	17 6.1%	0.81 8	1
25	My salary is meagre to meet my family monthly needs	27 7	133 48%	86 31%	22 7.9%	36 13%	0.78 5	2
26	I am satisfied with my pay as an academic	27 7	29 10.5%	16 5.8%	48 17.3%	184 66.4%	0.40 1	8
27	My salary is commensurate with my qualification and status	27 7	16 5.8%	15 5.4%	78 28.2%	168 60.6%	0.39 1	9
28	I receive end-of-year bonus every year	27 7	8 2.9%	-	31 11.2%	238 85.9%	0.30 0	14
29	I receive 13 <sup>th</sup> month salary at the end of every year	27 7	8 2.9%	-	22 7.9%	247 89.2%	0.29 2	15
30	I am paid my annual leave grant once a year whenever I go on annual leave	27 7	19 6.9%	14 5.1%	19 6.9%	225 81.2%	0.34 4	12
31	Male academics are entitled to paternity leave whenever their wives give birth	27 7	14 5.1%	35 12.6%	39 14.1%	189 68.2%	0.38 6	10
32	Academics have opportunity for vehicle loans in the University of Lagos	27 7	8 2.9%	16 5.8%	69 24.9%	184 66.4%	0.36 3	11
33	The University	27	9	43	99	126	0.44	6

	organises send forth for academics on retirement or for retirees	7	3.2%	15.5%	35.7%	45.5%	1	
34	Payment of academics' pension on retirement is prompt and hitch-free	27	7	19	126	125	0.41	7
		7	2.5%	6.9%	45.5%	45.1%	8	
<b>C</b>	<b>Health, Safety and Security of Academics</b>	<b>N</b>	<b>SA</b>	<b>A</b>	<b>D</b>	<b>SD</b>	<b>RII</b>	<b>RAN</b>
			<b>4</b>	<b>3</b>	<b>2</b>	<b>1</b>		<b>K</b>
35	As an academic I am covered by the National Health Insurance Scheme (NHIS)	27	116	110	28	23	0.78	4
		7	41.9%	39.7%	10.1%	8.3%	8	
36	Yearly health screening is mandatory for academics in the University of Lagos at subsidised charges	27	133	131	4	9	0.85	3
		7	48%	47.3%	1.4%	3.2%	0	
37	The guidance and counselling unit of the University has been instrumental and active in assisting academics who have personal/emotional problems	27	8	68	132	69	0.51	10
		7	2.9%	24.5%	47.7%	24.9%	4	
38	The NHIS is extended to spouses and a maximum of 4 children of academic staff	27	144	108	24	1	0.85	2
		7	52%	39%	8.7%	0.4%	6	
39	There is the need to improve on the NHIS with regard to scope and illnesses covered	27	200	67	2	8	0.91	1
		7	72.2%	24.2%	0.7%	2.9%	4	
40	There exists safety gadgets and personal protective equipment in the University of Lagos for academics who work in hazardous conditions	27	24	85	130	38	0.58	8
		7	8.7%	30.7%	46.9%	13.7%	6	
41	I am satisfied with security on campus as	27	2	129	126	20	0.60	7
		7	0.7%	46.6%	45.5%	7.2%	2	

	the security of academics on campus is assured or guaranteed			%	%			
42	The security situation in the University is top-notch or excellent	27 7	11 4%	82 29.6 %	131 47.3 %	53 19.1 %	0.54 6	9
43	The security situation in the University needs a total overhaul	27 7	87 31.4 %	136 49.1 %	45 16.2 %	9 3.2% %	0.77 2	5
44	There is security surveillance 24/7 with CCTV cameras at various locations on campus	27 7	30 10.8 %	117 42.2 %	105 37.9 %	25 9% %	0.63 7	6
<b>D</b>	<b>Learning &amp; Development of Academics</b>	<b>N</b>	<b>SA</b>	<b>A</b>	<b>D</b>	<b>SD</b>	<b>RII</b>	<b>RAN</b>
			<b>4</b>	<b>3</b>	<b>2</b>	<b>1</b>		<b>K</b>
45	The University of Lagos has the train-the-trainers programme to keep academics abreast of latest developments in their field/profession	27 7	18 6.5%	53 19.1 %	125 45.1 %	81 29.2 %	0.50 7	5
46	The University of Lagos academics are given the opportunity to attend learned national conferences sponsored by the University	27 7	26 9.4%	185 66.8 %	62 2.4% %	4 1.4% %	0.71 0	1
47	With respect to my professional affiliation, the University pays for my annual professional fees/ subscription	27 7	-	41 14.8 %	68 24.5 %	168 60.6 %	0.38 5	8
48	The University of Lagos academics are given the opportunity to attend learned international conferences sponsored by the university	27 7	32 11.6 %	168 60.6 %	67 24.2 %	10 3.6% %	0.70 0	2
49	Faculty and Departmental seminars	27 7	41 14.8	142 51.3	74 26.7	20 7.2% %	0.68 4	3

	are often held in the University to disseminate and share knowledge and experiences among academics		%	%	%			
<b>50</b>	Mentoring of younger academics is prevalent and paramount in the University	27 7	31 11.2%	87 31.4%	106 38.3%	53 19.1%	0.58 7	4
<b>51</b>	I am satisfied with the training and development of academics in the University	27 7	12 4.3%	50 18.1%	142 51.3%	73 26.4%	0.50 1	6
<b>52</b>	Entrepreneurship training for academics on retirement exists in the University	27 7	2 0.7%	54 19.5%	138 49.8%	83 30%	0.47 7	7
<b>E</b>	<b>Office Accommodation for Academics</b>	<b>N</b>	<b>SA</b>	<b>A</b>	<b>D</b>	<b>SD</b>	<b>RII</b>	<b>RAN</b>
			<b>4</b>	<b>3</b>	<b>2</b>	<b>1</b>		<b>K</b>
<b>53</b>	I have a decent and well-equipped office as an academic staff	27 7	2 0.7%	54 19.5%	138 49.8%	83 30%	0.47 7	1
<b>54</b>	I share an office with a colleague owing to inadequate office space	27 7	39 14.1%	14 5.1%	39 14.1%	185 66.8%	0.41 6	3
<b>55</b>	I am satisfied with the condition of my office as an academic staff	27 7	11 4%	38 13.7%	117 42.2%	111 40.1%	0.45 4	2
<b>F</b>	<b>Staff Residential Accommodation for Academics</b>	<b>N</b>	<b>SA</b>	<b>A</b>	<b>D</b>	<b>SD</b>	<b>RII</b>	<b>RAN</b>
			<b>4</b>	<b>3</b>	<b>2</b>	<b>1</b>		<b>K</b>
<b>56</b>	I live on campus in official quarters provided by the University	27 7	39 14.1%	10 3.6%	14 5.1%	214 77.3%	0.38 6	6
<b>57</b>	I live in off-campus official quarters provided by the University	27 7	23 8.3%	10 3.6%	23 8.3%	221 79.8%	0.35 1	7
<b>58</b>	I live in a rented accommodation off campus	27 7	131 47.3%	49 17.7%	21 7.6%	76 27.4%	0.71 2	4
<b>59</b>	I live in my personal	27	39	3	13	222	0.32	9

	house off campus	7	14.1 %	1.1%	4.7%	80.1 %	3	
<b>60</b>	I have been given housing loans since I joined the service of the University	27 7	2 0.7	27 9.7%	49 17.7 %	199 71.8 %	0.34 8	8
<b>61</b>	There is provision for house ownership scheme for academics in the University of Lagos	27 7	13 4.7%	39 14.1 %	62 22.4 %	163 58.8 %	0.41 2	5
<b>62</b>	The University should provide adequate housing for academic staff within or around the campuses	27 7	233 84.1 %	14 5.1%	18 6.5%	12 4.3%	0.92 2	1
<b>63</b>	I am not satisfied with the modalities for allocating residential accommodation for academics in the University	27 7	127 45.8 %	76 27.4 %	43 15.5 %	31 11.2 %	0.77 0	3
<b>64</b>	If given the opportunity, I prefer to live on campus	27 7	220 79.4 %	28 10.1 %	6 2.2%	23 8.3%	0.90 2	2
<b>G</b>	<b>Staff Performance Appraisal System of Academics</b>	<b>N</b>	<b>SA</b> <b>4</b>	<b>A</b> <b>3</b>	<b>D</b> <b>2</b>	<b>SD</b> <b>1</b>	<b>RII</b>	<b>RAN</b> <b>K</b>
<b>65</b>	I always complete my annual performance appraisal form every year	27 7	224 80.9 %	38 13.7 %	8 2.9%	7 2.5%	0.93 2	1
<b>66</b>	I am always called upon to read the comments of my HOD/superior prior to the processing of the APER Form.	27 7	168 60.6 %	83 30%	5 1.8%	21 7.6%	0.85 9	2
<b>67</b>	I receive merit pay following my performance appraisal result	27 7	37 13.4 %	69 24.9 %	46 16.6 %	125 45.1 %	0.51 6	5
<b>68</b>	In my Department, the result of performance appraisal is not communicated to staff	27 7	26 9.4%	104 37.5 %	40 14.4 %	107 38.6 %	0.54 4	4

		members						
69	There is open as	27	63	127	50	37	0.69	3
	against secret appraisal system in the University	7	22.7	45.8	18.1	13.4	9	
			%	%	%	%		

Source: Field Survey, 2019

From Table 4.3; the Relative Importance Index (RII) was used to rank the views of respondents as regards the challenges of academics. With respect to the career progression/ advancement of academics, 90.2 per cent of the respondents agreed and strongly agreed that there is the need to change the current policy on promotion based on a minimum of 3 years duration to reward hardworking academics. This statement was ranked first (1<sup>st</sup>). In the same vein, 76.5 per cent of the respondents agreed and strongly agreed that the period of confirmation of academic staff is too long, de-motivating and should not be based on acquisition of doctoral degree. Respondents ranked this statement second (2<sup>nd</sup>). As regards compensation/reward, 83.8 per cent of the respondents agreed and strongly agreed that their monthly salaries were paid at regular monthly intervals and this statement was ranked first (1<sup>st</sup>); while 79 per cent of the respondents were of the view that their salaries were meagre to meet their families' monthly needs. This statement was ranked second (2<sup>nd</sup>).

Concerning the health, safety and security of academics, 96.4 per cent of the respondents agreed and strongly agreed that there is the need to improve on the NHIS with regard to scope and illnesses covered, this statement was ranked first (1<sup>st</sup>). In the same vein, 91 per cent of the respondents were of the view that the NHIS is extended to spouses and a maximum of 4 children of academic staff which they ranked second (2<sup>nd</sup>). With respect to learning and development of academics, 76.2 per cent of the respondents were of the view that the University of Lagos academics are given the opportunity to attend learned national conferences sponsored by the University; while 72.2 per cent of the respondents agreed and strongly agreed that the University sponsors academics for international conferences as well. These statements were ranked first and second respectively.

Concerning office accommodation for academics, 79.8 per cent of the respondents disagreed and strongly disagreed that they have a decent and well-equipped office as academics. This statement was ranked first (1<sup>st</sup>). Similarly, 82.3 per cent of the respondents disagreed and strongly disagreed that academic staff are satisfied with the condition of my office as an academic staff, this was ranked second (2<sup>nd</sup>). With respect to staff residential accommodation for academics, 89.2 per cent of the respondents agreed and strongly agreed that the University should provide adequate housing for academic staff within or around the campuses. This was ranked first (1<sup>st</sup>). In



the same vein, 89.5 per cent of the respondents agreed and strongly agreed that they would prefer to live on campus if given the opportunity. The statement was ranked 2<sup>nd</sup>. As regards the modalities for allocating residential accommodation for academics in the University, 73.2 per cent of the respondents were dissatisfied with such modalities.

With respect to staff performance appraisal system of academics, 94.6 per cent of the respondents agreed and strongly agreed that they complete annual performance appraisal form every year. This was ranked first. Also, 90.6 per cent of the respondents agreed and strongly agreed that they also read the comments of their HODs/superiors prior to the processing of their APER Forms. This statement was ranked second (2<sup>nd</sup>). This implies that there exists open as against secret or confidential appraisal system in the University.

## **5. Conclusion and Recommendations**

The study examined the mandate of the Nigerian University System and investigated the challenges besetting sustainable development of higher education in Nigeria. The study has made a significant contribution to the literature on sustainability of higher education in the Nigerian context. The NUC mandate with respect to the development of intellectual capability of individuals to understand and appreciate their local and external environments has been largely achieved by the University of Lagos and many Nigerian universities. For instance, the University of Lagos academics are given the opportunity to attend learned national and international conferences sponsored by the University to widen their intellectual horizon and to keep them abreast of recent developments in their field. In the same vein, many students in Nigerian universities undergo split-academic programmes in universities abroad as well as foreign exchange programmes.

With respect to contribution to national development through high level relevant manpower training, the University of Lagos and other Nigerian universities have trained high level manpower occupying important positions in the Nigerian economy and elsewhere in the world. The Nigerian universities have produced critical manpower needs in virtually all sectors of the Nigerian economy. With respect to scholarship and community service, besides teaching and research, Nigerian universities have been heavily involved in promoting scholarship and are involved in a host of community services to give back to society as well as host communities. Nigerian Universities organise conferences and collaborate with other foreign universities to promote national and international understanding and interaction. The Nigerian university system is not only involved in scholarship, research and community service but also mould the character of students thereby developing and inculcating proper values for the survival of the individual and society at large.

The findings of the study revealed that higher education in Nigeria is faced with a myriad of challenges and the working conditions of academics leave much to be desired. Arising from the findings of the study, it is hereby recommended that for there to be sustainable development of higher education in Nigeria, governments at all levels, individual entrepreneurs as well as the University of Lagos should focus more efforts on:

- i. Ensuring that facilities for teaching, learning and research such as classrooms, lecture theatres, laboratories, workshops and staff offices are provided in institutions of higher learning for the sustainability of higher education in Nigeria.
- ii. Ensuring that the physical and social conditions under which academics work and live are satisfactory and conducive if they are to give off their best to their jobs and to contribute meaningfully to the development of higher education in Nigeria.
- iii. Adequate health care facilities beyond primary health care should be provided for academics.
- iv. Compensation/reward system should be reflective of the contributions of academics. There is the need to review the salary structure of academics in Nigeria based on the cost of living devoid of political sentiments.
- v. Government should increase the funding of the educational sector by devoting at least a minimum of between 30 and 35 per cent of annual budget to this strategic sub-sector of the economy if sustainable development of higher education in Nigeria and the mandate of the Nigerian University System are to be fully realised.

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**APPENDIX****Table 1.1: Sustainable Development Goals**

Goals	Description of Goals
Goal 1	End poverty in all its forms everywhere
Goal 2	End hunger, achieve food security and improved nutrition, and promote sustainable agriculture
Goal 3	Ensure healthy lives and promote well-being for all at all ages
Goal 4	Ensure inclusive and equitable quality education and promote lifelong learning opportunities for all
Goal 5	Achieve gender equality and empower all women and girls. Ensure the promotion, enforcement and monitoring of equality and non-discrimination on the basis of sex
Goal 6	Ensure availability and sustainable management of water and sanitation for all
Goal 7	Ensure access to affordable, reliable, sustainable and modern energy for all
Goal 8	Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all
Goal 9	Build resilient infrastructure, promote inclusive and sustainable industrialisation and foster innovation
Goal 10	Reduce inequality within and among countries
Goal 11	Make cities and human settlements inclusive, safe, resilient and sustainable
Goal 12	Ensure sustainable consumption and production patterns
Goal 13	Take urgent action to combat climate change and its impacts
Goal 14	Conserve and sustainably use the oceans, seas and marine resources for sustainable development
Goal 15	Protect, restore and promote sustainable use of terrestrial ecosystems, sustainably manage forests, combat desertification, and halt and reverse land degradation and halt biodiversity loss
Goal 16	Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels
Goal 17	Strengthen the means of implementation and revitalise the Global Partnership for Sustainable Development

Source: Federal Republic of Nigeria (2017). *Sustainable Development Goals (SDGs) Indicators Baseline Report 2016*

# Adapt International Network



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