

## Relations industrielles Industrial Relations



*Employment Equity and Affirmative Action: An International Comparison*, by Harish C. JAIN, Peter J. SLOANE and Frank M. HORWITZ, with Simon TAGGAR and Nan WEINER, Armonk, N. Y.: M. E. Sharpe, 2003, 229 pp., ISBN-10: 0-7656-0453-1 and ISBN-13: 978-0-76-560452-1

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Volume 62, numéro 2, printemps 2007

URI : <https://id.erudit.org/iderudit/016093ar>

DOI : <https://doi.org/10.7202/016093ar>

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Éditeur(s)

Département des relations industrielles de l'Université Laval

ISSN

0034-379X (imprimé)

1703-8138 (numérique)

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Citer ce compte rendu

Agocs, C. (2007). Compte rendu de [*Employment Equity and Affirmative Action: An International Comparison*, by Harish C. JAIN, Peter J. SLOANE and Frank M. HORWITZ, with Simon TAGGAR and Nan WEINER, Armonk, N. Y.: M. E. Sharpe, 2003, 229 pp., ISBN-10: 0-7656-0453-1 and ISBN-13: 978-0-76-560452-1]. *Relations industrielles / Industrial Relations*, 62(2), 377–379. <https://doi.org/10.7202/016093ar>

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traitent aussi du recours à l'encontre du harcèlement psychologique selon la *Loi sur les normes du travail* et du recours à l'encontre d'un congédiement injustifié selon la même loi. Ils abordent, dans le deuxième chapitre, divers recours relevant des tribunaux de droit commun. Le troisième chapitre renseigne sur les contentieux liés à la protection des renseignements personnels, au devoir de représentation syndicale, aux droits de la personne, à la santé et la sécurité du travail, et sur différents autres recours prévus dans des lois qui confèrent compétence à la CRT. Le contentieux pénal du droit de l'emploi est également présenté dans ce dernier chapitre.

Le sixième et dernier titre est à caractère prospectif. Les auteurs discutent de la probable évolution du

droit de l'emploi. Dans un premier chapitre, ils mettent l'accent sur le dépassement du droit de l'emploi et son inadaptation par rapport à la métamorphose de l'entreprise. Ils proposent dans un deuxième chapitre des pistes de réponse. Le livre comprend aussi une liste des annexes, une table des principales lois citées, une table alphabétique et une volumineuse table de la jurisprudence.

En somme, *Le droit de l'emploi au Québec* (3<sup>e</sup> édition) est une source doctrinale fondamentale qui saura servir, dans leurs dimensions juridiques, l'enseignement, la recherche et la pratique des relations du travail.

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***Employment Equity and Affirmative Action: An International Comparison,***

by Harish C. JAIN, Peter J. SLOANE and Frank M. HORWITZ, with Simon TAGGAR and Nan WEINER, Armonk, N. Y.: M. E. Sharpe, 2003, 229 pp., ISBN-10: 0-7656-0453-1 and ISBN-13: 978-0-76-560452-1

An international group of academic specialists has produced a useful collection of eight chapters that examines the policy approaches used in six countries to address inequality in employment experienced by women and racialized groups. The countries include Canada, South Africa, Malaysia, India, the USA and "Britain/Northern Ireland." An introduction to equality issues and policy responses in the six countries is followed by chapters on theories of discrimination, impacts of employment equity legislation on human resource management practices, fair pay, trade unions and discrimination, and public policy concerning employment discrimination. The introduction states that "the fundamental premise of this book is that equality in employment is compatible with the goals of efficiency and economic growth and prosperity at both *enterprise* and *national and*

*international levels*" (p. xi). The authors state that they seek to identify best practices and lessons that can be learned by examining employment equality policies in several countries, and to present useful conceptual and operational frameworks.

The authors recognize four different policy approaches to discrimination in the workplace: quota-based policies, affirmative action and employment equity, all of which are legislated and mandatory, and diversity management, which is a voluntary and corporate approach. The book focuses on the three mandatory approaches. Malaysia has hiring quotas for public sector employment for native Malays, the majority community, and India has a hiring quota system for some government jobs and for access to higher education for scheduled castes and tribes. The USA has an affirmative action contract

compliance policy to improve the representation of women, racialized minorities and Aboriginal peoples. In Canada, legislated employment equity and contract compliance require the relatively small proportion of employers who are covered to set targets to improve the representation of women, visible minorities, Aboriginal people and persons with disabilities. South Africa and Northern Ireland took the Canadian legislation as their models. South Africa's legislation addresses discrimination in private and public sectors against women and racialized people (including African, colored and Indian groups), who constitute the majority of the population. Northern Ireland has an employment equity policy for Catholics in public and private sector employment. Britain does not have mandatory employment equity; however, local authorities have a duty to monitor the representativeness of their staff as well as the impacts of government policies on minorities.

The book states that countries with mandatory programs "have made significant progress in improving the employment and earnings of the designated groups, although they still have a long way to go" (p. 42). The authors cite some research evidence from each of the countries suggesting a mixed record of success in addressing the complex issues of discrimination and inequality in employment. Northern Ireland appears to offer a clear example of improvement in the representation of Catholics, in the context of an employment equity policy that is well designed and effectively enforced. In Canada and the USA, there have been improvements in the representation and pay of women and racialized groups, though significant inequality remains. Employment equity was introduced recently, in 1998, in South Africa, and there have already been improvements for Black males in some occupational groups, but few signs of progress for

women. Quotas in India and Malaysia have been in place for some years and have produced gains in employment for designated groups, and a significant reduction in the incidence of poverty in the Malay population. In South Africa, India and Malaysia, a large proportion of women work in the informal economy and therefore do not benefit from public policies designed to reduce inequality. In all countries, economic growth at the national level facilitates the effectiveness of equality policies.

Taggar's chapter discusses the strong impacts of equality policies on human resources techniques and decision making processes, and notes that structured human resource management systems complement the implementation of these policies. In contrast, the centralized quota systems used in India and Malaysia appear to have little impact on the practice of human resource management. Taggar provides a helpful review of research on testing and other human resource management techniques that are intended to reduce bias in decision-making.

A chapter on the measurement of the effectiveness of employment equity programs contains a list of attributes of programs that was the basis of an index of policy effectiveness developed for use in Canada. However, it does not report on research using the recommended measurement approach. Research that examines the specific practices employers use—or fail to use—when they are required to implement employment equity, and the effects of these practices, is badly needed. It would be particularly important, though methodologically challenging, to compare outcomes for designated groups in firms covered by employment equity legislation with firms that are not covered, using an index of the kind presented in this chapter.

Weiner's chapter on fair pay reviews three kinds of wage discrimination—

general, equal work, and equal value—and the specific policy responses appropriate to each. Gender-based wage discrimination has received considerably more policy attention than race-based discrimination in all the countries discussed. In comparing the six countries, Weiner notes that Canada has the most highly developed policy framework to address pay discrimination against women. Data deficiencies hinder efforts to compare outcomes of the policy approaches in different countries, though there is evidence that fair wage policies are effective in addressing pay inequality within a country.

The book is a collection of separate chapters that are not integrated by means of an analytical or conceptual framework that provides a systematic comparison of policies and results across the six countries. The theoretical chapter does not provide such a framework, nor does it go beyond traditional and outdated economic models to include more recent perspectives that address

systemic discrimination. The reader is left without theoretical guidance for understanding affirmative action and employment equity policies as responses to structural and institutional discrimination.

However, an underlying theme of the book is that proactive, legislated and mandatory policy responses to employment discrimination are more effective in getting results than complaint-based systems that require individual victims of discrimination to seek justice. Another theme is the question of whether there is global convergence among countries in equality policies and practices. The conclusion notes significant variation among the countries, rooted in their local histories and institutional frameworks, that makes convergence unlikely. This is but one question of many that deserve attention in future comparative research on equality policies and their results.

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***Moving Up in the New Economy: Career Ladders for U.S. Workers,***

par Joan FITZGERALD, Ithaca, N.Y.: Cornell University Press, 2006, 251 p., ISBN: 0-8014-4413-6

De toutes parts, tant dans la littérature scientifique que dans les ouvrages destinés au grand public, un nombre important d'auteurs constatent l'émergence d'un nouveau modèle de développement économique. Joan Fitzgerald s'inscrit dans ce courant et présente un ouvrage sur la trajectoire de carrière des travailleurs dans le cadre de cette « nouvelle économie ». L'auteure s'intéresse plus particulièrement aux liens entre les tendances économiques actuelles, l'éducation et le développement de la main-d'œuvre.

Précisément, Fitzgerald soulève trois tendances propres à la nouvelle économie susceptibles d'influencer la trajectoire de carrière des travailleurs. La première tendance observée par l'auteure

relève du déclin du syndicalisme. Elle fait également état des pressions subies par les entreprises pour réduire leur coût de fonctionnement, notamment les coûts liés à la main-d'œuvre, et cela à cause de l'accroissement de la concurrence au cours des dernières années. Finalement, Fitzgerald aborde une dernière tendance, soit la transition d'une économie industrielle vers une économie de services. Selon l'auteure, ces trois tendances font en sorte que la nouvelle économie s'avère plus propice à la disparité salariale, offre moins de possibilités d'avancement pour les travailleurs et fragilise leur sécurité d'emploi.

Dans ce contexte, Fitzgerald propose de soutenir les travailleurs, tant au plan