

RAISING AWARENESS OF THE PROBLEM OF DISCRIMINATION AGAINST MIGRANTS AND MINORITIES IN EMPLOYMENT

John Wrench

Centre for Diversity and Inclusion
NTNU Social Research
Norwegian University of Science and Technology
NO-7491 Trondheim
Norway

john.wrench@samfunn.ntnu.no

Paper presented to
Committee on the Elimination of Racial Discrimination
Geneva, 14 August 2015

RAISING AWARENESS OF THE PROBLEM OF DISCRIMINATION AGAINST MIGRANTS AND MINORITIES IN EMPLOYMENT

John Wrench
August 2015

Statistics and research have demonstrated significant and persistent patterns of inequality in the labour market experiences of immigrants and foreign-born in comparison with native-born populations. For example, on average, in OECD countries, immigrants have higher unemployment rates, lower incomes, and are over-represented in economic sectors characterised by poorer working conditions in comparison with the native-born population (OECD 2013; FRA 2011a). Research has also shown that children of immigrants in OECD countries have a poorer labour market performance than the comparable children of native-born (OECD 2010). Whilst poorer working conditions and higher unemployment rates might be expected for first-generation immigrants, it is less understandable why the children of these immigrants should also have significantly poorer labour market experiences. This paper focuses on ethnic discrimination as a factor in this disparity. Of course, the disparity occurs for a number of reasons, not only discrimination. Nevertheless, there is now a body of evidence assembled through a range of techniques and from a variety of sources that demonstrates convincingly that unjustifiable discrimination is one factor which blights the working lives and reduces the employment opportunities of minorities, immigrants and their descendants.

“No problem here”

In the early 1990s, in many countries of the EU, the issue of racism and ethnic discrimination in the labour market and at the workplace was nowhere on the agendas of trade unions or employers. In 1996 a report was published which for the first time brought together the evidence on the problem from all the (then 15) EU member states, drawing attention to practices of discrimination that were significantly undermining employment opportunities for immigrants and minorities in Europe. The research was carried out by the European Foundation for the Improvement of Living and Working Conditions in Dublin, drawing on evidence commissioned from researchers in each member state (EUROFOUND 1996).

One of the most striking findings of the EUROFOUND project was the level of ignorance of the issue exhibited by employers and trade unionists. The launch of the report at a conference in Madrid in 1996, attended by policy makers, employers and trade union representatives, elicited responses such as “Racism isn’t a problem in our country because historically we have never been a colonial power” or “there is no problem of racial discrimination because we have traditionally been a country of emigration, and understand the problems of migrants” (Wrench 2000: 276).

One reason why a ‘no problem here’ stance is so easy to maintain is the fact that racial/ethnic discrimination in employment usually operates clandestinely, often without the victims being aware of it. It is commonly indicated in statistical patterns over time, and then identified by specific research and targeted investigations. Before such investigations bring the problem to the surface, there can be a pervasive ‘no problem here’ attitude to racial discrimination on the part of employers, trade unionists, and other labour market actors. However, the ‘invisibility’ of its operation is not the only reason for a reluctance to acknowledge the possibility of discrimination. Another is an over-narrow assumption about the nature of racial/ethnic discrimination itself – that it must be something carried out by people with racist attitudes or ethnic prejudices, a deliberate denial of employment opportunities motivated by hostility and antipathy towards the group in which the victim is a member. Most reasonable employers will then assume “We are not like that, so there can be no discrimination here”. As Craig (2010) puts it “the prevailing notion of discrimination is framed by images of overt, intentional acts of prejudice. It is easy to see the perpetrators of such actions as bad apples and to view their actions as exceptional and isolated”. Employers can assume that there is ‘no problem here’ because in the minds of employers, “the absence of a perpetrator is equivalent to the absence of discrimination” (Craig 2010: 5). Yet in reality, ethnic discrimination can occur without any racist motive or intent on the part of an identifiable perpetrator.

This paper addresses both strands of the “no problem here” fallacy. Firstly it sets out the various kinds of research evidence that bring to the surface evidence on the operation of ethnic discrimination in the employment sphere. Secondly it lists a number of conceptually distinct types of discrimination that are relevant to this evidence, which show clearly that racial discrimination is not something that is perpetrated only by ‘racists’. The paper is illustrated with concrete examples of discrimination that have come to light in recent years, whether by research, NGO activity, or legal cases, most of which have been described in the reports of the EU Agency for Fundamental Rights.

Sources of evidence for discrimination

Evidence for the operation of racial discrimination comes from a variety of sources, including official statistics and research. In many countries it can be first indicated in surveys which have compared the achievements of immigrants and their descendants to those of the majority population, and identified an ‘ethnic penalty’, defined as the disadvantages that racial and ethnic minorities experience when compared with their majority peers of the same age and human capital (Heath and Cheung 2007).

Ethnic penalties

The degree of ethnic penalty is estimated by statistical analyses which control for age, experience, educational level, and other relevant factors. When differentials are found which cannot be explained by these factors, this suggests that ethnic discrimination is in operation. Heath and Chung used a standardised methodology to compare ethnic penalties in unemployment rates for the native-born offspring of immigrants in eleven OECD countries, indicating that the largest penalties seem to occur in the case of minorities from Sub-Saharan Africa, North Africa and the Middle East (OECD 2013: 209-210).

Examples of ethnic penalties can also be found in longitudinal surveys, where, for example, samples of school leavers have had their subsequent progress tracked over several years. In a major British survey, young people from ethnic minorities were found to be more likely to experience both higher rates and longer spells of unemployment, even after taking account of factors such as attainment and local labour market conditions (Drew et al. 1992). In Belgium in 2003, one year after leaving school, a considerably larger proportion of young people from immigrant backgrounds were still unemployed, in comparison with majority Belgians, for both gender groups and for all educational levels (Misplon and Holderbeke 2006).

The ethnic penalties revealed in these types of studies strongly indicate ethnic discrimination as a factor which operates in the labour market. However, the problem with ethnic penalty studies is the possibility that the observed disparities might be accounted for a multitude of other unknown factors. As Pager and Shepherd (2008: 3) note “While statistical methods represent an extremely important approach to the study of race differentials, researchers should use caution in making causal interpretations of the indirect measures of discrimination derived from residual estimates”. This analytical weakness has particular relevance in contexts where there remains a dominant ‘no problem here’ assumption. As ethnic penalties identified in statistical research are only *indirect* indicators of the operation of discrimination, it is therefore important to the turn to other kinds of indicators which provide *direct* evidence.

Direct evidence from research

Research has been crucially important in identifying practices of discrimination which would otherwise go unnoticed, complementing the indirect evidence from ethnic penalties with direct evidence. Three of the most valuable types of research in this area have been (i) surveys of employers and ‘gatekeepers’ (ii) victim surveys, and (iii) discrimination testing experiments.

(i) Surveys of employers and ‘gatekeepers’

Surveys of employers, or of employment agency staff, either by questionnaire surveys or by qualitative research, provide information on attitudes and practices which have direct implications for the access of migrants and minorities to employment opportunities.

Pager and Shepherd (2008: 2) list examples of qualitative and questionnaire studies in the US which have demonstrated the discriminatory implications of employers’ attitudes and hiring practices. For example, some employers openly admitted to disregarding young inner city black

men in their recruitment, attributing to them characteristics such as 'lazy' or 'unreliable' (Wilson 1996; Moss and Tilly 2001).

Similar examples can be found in Europe. Interviews in Germany in 2006 showed that personnel managers when recruiting could be affected by cultural stereotypes and anti-Turkish prejudices (e.g. Turks are 'not ambitious', 'too macho', or 'incapable of working in a team') (FRA 2007: 56-57). In Belgium a survey of 688 members of an organisation of self-employed found that 80 per cent would not consider hiring a person of foreign nationality, even for occupations where there are labour shortages (FRA 2008: 52). In Lithuania, 40 per cent of surveyed employers reported that they would not hire Roma (FRA 2009b: 37). Other examples include studies in Bulgaria, Romania, Malta and Sweden, where large numbers of employers, sometimes the majority of respondents, stated that they do not hire persons from certain ethnic groups to work in their companies (FRA 2011a: 62).

(ii) Surveys of migrants and minorities, or 'victim surveys'

Victim surveys, sometimes known as self-report studies, cover people from social groups who are at most risk of suffering discrimination, and focus on their subjective experiences of discrimination. In the US, surveys asking African Americans and other minorities about their experiences of discrimination have demonstrated the frequency with which discrimination is perceived to be encountered (Pager and Shepherd 2008: 2). For example, in 2001, more than a third of blacks and almost 20 per cent of Hispanics and Asians reported that they had personally been refused a job or passed over for promotion because of their race or ethnicity (Schiller 2004).

Similar studies have been carried out in several European countries in recent years. For example, in Germany, of 1,000 Turkish people surveyed in 2004, over 56 per cent stated that they had experienced discriminatory treatment at their workplace (Goldberg and Sauer 2004). In 2006, surveys of Russian speakers in Estonia, immigrants in Denmark, Turks in Germany, Serbs and Bosniacs in Slovenia and Somalis, Russians, Estonians and Vietnamese in Finland all reported subjective experiences of discrimination in employment (EUMC 2006: 48). In a French survey of 22,000 individuals in 2008-2009, 26 per cent of immigrants and 24 per cent of 'second generation immigrants' reported experiencing discrimination in a range of areas, including employment (Beauchemin et al. 2010).

In these various surveys covering the employment sphere, respondents describe suspicions of being discriminated against in job applications, or experiences of unequal treatment at the workplace, such as racist insults and harassment, being treated unequally regarding wages, conditions, access to training and access to promotion, or being unfairly selected for dismissal.

The most ambitious survey of this type to be carried out in Europe has been the EU-MIDIS (European Union Minorities and Discrimination Survey), the first of its kind to survey minority groups across all EU member states using a standardised questionnaire. The study, covering 23,500 respondents from the main migrant and minority groups in each country, showed that discrimination on the basis of ethnicity was perceived as a serious problem by migrants across all EU countries. For example, just over one fifth of the sub-Saharan African respondents reported that they were discriminated against when looking for work, and 17 per cent whilst at work. The figures for North African immigrants were 20 per cent and 16 per cent respectively (FRA 2009a: 42). Of those who believed they were discriminated against, the survey showed that the overwhelming majority did not report their experiences of discrimination to an organisation or at the place where it occurred (FRA 2009a: 13).

Questionnaire-based victim surveys have the advantage that they are able to capture a greater range of incidents than those reported to the authorities, because they are not reliant on people's willingness to report incidents. However, one weakness with this method is that people may over-estimate or under-estimate their experiences of discrimination, or may even be unwilling to admit that they have been discriminated against.

(iii) Field experiments and situation testing

The method of testing discrimination through field experiments utilises two or more testers, one belonging to a majority group and the others to minority ethnic groups, all of whom apply for the same jobs. The testers are matched for relevant criteria such as age, qualifications, experience and education. If over a period of repeated testing the 'applicant' from the majority background is systematically preferred to the others, then this points to the operation of discrimination

according to ethnic or national origin. The method can be carried out in situation tests with trained testers who apply in person, it can be carried out over the telephone, or it can be carried out with correspondence tests and the sending of matched pairs of letters and/or CVs.

In the US such studies have consistently found evidence of racial discrimination in recruitment (Pager and Shepherd (2008: 5). For example, in one 2004 study, researchers mailed CVs to employers in Chicago and Boston with 'racially identifiable' names, and found that white names elicited a 50 per cent higher positive response than that of equally qualified black applicants (Bertrand and Mullainathan 2004). During the 1990s the International Labour Office (ILO) began 'situation testing' in Europe, covering it first in Belgium, Germany, the Netherlands and Spain (Zegers de Beijl 2000), and over the next decade in Italy, France and Sweden (Simeon et al. 2010). The ILO studies found that the minority candidates generally had to make three to five times more attempts than majority candidates to obtain a positive response.

Similar research has also been carried out independently of the ILO, but guided by its methodology, in Denmark (Hjarnø and Jensen 1997), Switzerland (Fibbi et al. 2003), Greece (Drydakis and Vlassis 2010) and Norway (Midtbøen and Rogstad 2012), all finding significant levels of discrimination against 'applicants' of migrant or minority ethnic origin, as identified by factors such as name or skin colour.

Testing is a highly effective method for investigating discrimination in recruitment, and overcomes the problem that in real life most such discrimination is invisible. With this method there is no doubt as to the validity of the evidence, particularly when the minority candidate enquires first, is told the job is gone, and then a little later the majority applicant is informed that the job is still vacant.

Types of discrimination

The evidence produced by the various types of research described above can clearly be used to challenge the simplistic stance of employers and trade unionists that 'there is no problem here'. However, this type of evidence does not undermine the second part of the fallacy, namely that 'discrimination is only carried out by racists'. For this, it is helpful to set out a list of various 'types' of discrimination.

It can be argued that there are several conceptually distinct types of discrimination that are relevant to the field of employment (Williams 2000; Wrench 2015). These are:

(i) Racist discrimination.

This is direct, intentional discrimination which occurs when markers of racial or ethnic identity are used as the reasons for differential treatment without any other justification. It covers actions by racist or prejudiced people who hold and act on negative group stereotypes about people, denying them jobs, or excluding them from training or promotion opportunities. This type of discrimination also covers verbal, psychological and physical abuse or harassment at the workplace. This type is the easiest to understand, and the easiest to relate to concrete cases.

Many such examples of this kind of discrimination come to light each year, generally from formal complaints and legal proceedings. For example: in 2004 a Hungarian hotel manager told a receptionist, when faced by a Roma job applicant, "I do not hire Gypsies here, I hate them all" (EUMC 2005: 40); in 2007 in Malta two African men were refused a job in a poultry-processing factory whose owner stated that "African people are not hygienic enough to handle poultry"¹; in 2005 in Austria, a Jordanian man was called "camel driver" and "stupid Arab" by his colleagues and finally beaten up so badly he had to go to hospital, whilst his employer denied all knowledge of and responsibility for the assault (EUMC 2005: 39); in 2010 four Polish workers on an industrial site in Ireland were awarded compensation after suffering "deliberate blatant and unfettered" racist abuse at work, including being instructed not to speak to each other in Polish during lunch breaks, and told that Polish food and Polish people smelled. (FRA 2011b: 112). Such cases are easily categorisable as 'racist discrimination'. Importantly, for those who state there is 'there no discrimination around here,' this is assumed to be the *only* form of discrimination.

(ii) Statistical discrimination

¹ The Times (of Malta) 25.06.2007 p. 25

This covers actions which are based not on personal racism or on prejudices, but on perceptions of a minority group as having certain characteristics which will have negative consequences for the organisation. "It occurs whenever an individual is judged on the average characteristics of a category in which he or she is presumed to belong, rather than upon his or her actual characteristics..." (Banton 1992: 80). For example when faced with a hundred applicants for a job and wanting to avoid the costs of interviewing all of them, an employer might exclude all applicants born overseas on the grounds that they would be less likely to have relevant experience (Banton 1992: 80). When an employer eliminates from consideration a candidate from a group which is not perceived to be as 'profitable' as other groups, it is argued that such an attitude is a reflection of rational economic behaviour and is not to be confused with racism.

By its very nature, cases of 'statistical discrimination' are not visible in the way that cases of 'racist discrimination' are. Evidence under this heading does not come easily from court cases and everyday examples of the kind reported to authorities. But it might be revealed by research into the actions and motives of employers. For example, in interviews with employers in the US, Wilson (1996) noted that their recruitment decisions were often guided by 'risk aversion', in the form of statistical discrimination.

Statistical discrimination can be illustrated by an example from research in the UK, where an employer in the clothing industry instructed employment agency staff not to send her any Asians for interview because "If we trained Asians they would go off and start their own business". This was a reflection of a statistical truth – in the UK, Asian groups have an above average tendency to be entrepreneurs, and are over-represented among those who start their own businesses (Runnymede Trust 2000: 202). This can be classified as an example of 'statistical discrimination', in that Asians as a group were seen as statistically likely to have certain characteristics which were perceived to have negative consequences for the employer (Wrench 1991: 194).

Of course, there may be a fine line between statistical discrimination and racist discrimination because often the employers' assumptions about statistical tendencies in a group are incorrect (Williams 2000: 64). As Pager and Shepherd (2008: 8) note, much academic literature in this area attempts to distinguish whether the discrimination really is an indication of an instrumental adaptation to information shortages, or whether it is simply rooted in prejudice and racial hostility.

(iii) Societal discrimination

This occurs when people who may be free of ethnic hostility or prejudice themselves are aware that other people have negative attitudes towards members of a social group (Williams 2000: 64). If employers are aware of potential prejudice against a minority group amongst valued customers, they may avoid recruiting or promoting members of that group into a position where they will be in direct contact with these customers, such as a sales representative.

It is not difficult to find examples of this category, with many cases that have come to light in legal proceedings. For example: in 2004 the manager of a security firm in Hungary refused a job to a certificated Roma security guard, telling him that his clients would not accept Roma staff (EUMC 2005: 40); in 2004 in Poland a Roma woman responding to a newspaper advertisement for a waitress was told that the employer did not hire "Gypsies" because they would "scare off clients" (EUMC 2005: 40); in 2006 in Italy, a black Italian girl filed a complaint for racial discrimination against the owner of a restaurant who refused to employ her, saying that her skin colour could "disturb" some of his customers (FRA 2007: 53).

Employment agencies have been regular arenas for the operation of societal discrimination, with the actions of agency staff determined by the prejudices of another person, in this case the organisations' clients. If employees of an employment agency know that immigrants would not be welcomed by a particular employer, they may avoid sending an immigrant to be interviewed for a vacant position. For example: a journalist from a Danish television programme pretending to be a private building contractor called 24 of the regional state-run employment offices requesting workers who were "Danish nationals", and in only one office did an employee refuse to cooperate with this request. Three months later, following a similar exercise, a Danish newspaper described how six out of eight private job agencies accepted a discriminatory instruction in relation to the hiring of replacement workers, guaranteeing that the worker would be a "native Dane" (EUMC 2005: 43).

It is clear, then, that these first three types of discrimination are conceptually distinct, and that examples can be found to exemplify each one. One way of illustrating the differences between them might be simply to use the three following statements: for racist discrimination the argument might be 'I won't employ immigrants because I don't like them'; for statistical discrimination it might be 'I won't employ immigrants because they will go off and start their own businesses', and for societal discrimination it might be 'I won't employ immigrants because my customers won't like it'.

(iv) *Structural discrimination*

This concerns group-based patterns of disadvantage and inequality that are not the consequences of a particular individual's bias against the group or a wilful act of social exclusion, but are the result of more subtle, structural and institutional forces. Structural discrimination, sometimes called 'systemic discrimination', occurs when the prevailing system of opportunities and constraints favours the success of one group over another, through the operation of policies and practices that contribute to the systemic disadvantage of members of certain groups (Pager and Shepherd 2008: 11). Craig (2010) describes systemic discrimination as "legal rules, policies, practices or predominant cultural attitudes in either the public or private sector which create relative disadvantages for some groups, and privileges for other groups". As the barriers to equality are structural in nature, "there is often no clearly identifiable victim and no clearly identifiable perpetrator" (Craig 2010: 2-3).

Indirect discrimination

One type of structural discrimination is *indirect discrimination*, sometimes known as 'adverse effect' discrimination, where the application of apparently 'neutral' regulations, work routines or recruitment practices discriminate against members of an ethnic group, in an unintended and unanticipated way; for example, where a height requirement exists for a job that disqualifies disproportionately more members of a minority group but which cannot be proved to be necessary (Banton 1992: 76).

For example: in a British survey, many firms were found to rely in significant part on the family members of existing employees when recruiting apprentices, pointing to the benefits to the firm in terms of family loyalty and a parental link with young workers. In addition, many firms did not advertise their vacancies, and relied on word-of-mouth recruitment, with the result that ethnic minorities would be less likely to hear of vacancies than white school leavers who had contacts within the firm (Wrench 1995: 628). These employers' practices constituted indirect discrimination, because, in a largely white workforce, they operated against the recruitment of ethnic minorities.

Indirect discrimination can also cover the passive adherence to company rules or traditions which do not allow for changed circumstances in the workforce or in the locality. When discussing the prohibition of indirect discrimination by the EU equal treatment directives, Makkonen remarks "unreflective continuing of customary business practices, no matter how well-established they are, may lead to discrimination and would thus need to be discontinued" (Makkonen 2007: 16). Traditional practices such as inflexible dress codes, canteen menus or holiday rules can be potential factors of indirect discrimination in the context of a new multi-ethnic workforce. For example: in Slovenia in 2008, an employee of Muslim faith lodged a complaint with the Advocate of the Principle of Equality that an employer who provided meals for employees during work time refused a request for food without pork or lard, which the employee said discriminated against Jews and Muslims. The Advocate issued an opinion that the person in question had been subject to indirect discrimination on the basis of religion (FRA 2009: 40).

Past-in-present discrimination

Another type of structural discrimination is *past-in-present discrimination*, where 'neutral' practices have greater negative impact on a minority group because of historical, rather than current, intentional discrimination. For example, if past discrimination has confined minority group members to inferior jobs, then patterns of structured inequality will persist over more than one generation even after current discrimination has been removed. This has been described as 'among the most pervasive and pernicious sources of structural inequality (Williams 2000: 65).

In the European context, probably the minority group which has suffered most from this type of historically-rooted discrimination is the Roma. For example, a major survey of the situation of Roma in 11 EU member states in 2014 found that about 90 per cent of those surveyed lived in households with an equalised income below national poverty lines, with less than one in three

Roma in paid employment. Factors such as living in segregated areas with limited or no access to public transport and poor infrastructure, and being faced by discrimination and racism, reduced the possibilities of finding work (FRA 2014a: 8,11).

Side-effect discrimination

A third type which falls under the heading of structural discrimination is *side-effect discrimination*, when discrimination in one social sphere will generate inequality in another social sphere, even when there is no discrimination in the second sphere (Williams 2000: 64). For example, in EU countries there are many examples reported of discrimination against migrants and minorities in the spheres of housing (see, for example, Harrison et al. 2006) and clearly this kind of discrimination can have repercussions for inequality in the sphere of employment.

Again, it seems the Roma in Europe would constitute a strong example relevant to side-effect discrimination, for example, regarding education. The earlier-mentioned survey of Roma in 11 EU member states found that Roma populations faced “a high risk of segregated schooling compounded by prejudice and discrimination,” and were characterised by high drop-out rates before completing secondary education, and low rates of literacy (FRA 2014b: 11). Clearly such experiences have ‘side-effect’ implications for their lack of success in the labour market, as described in the same survey.

Legal discrimination

A final type of structural discrimination is *legal discrimination*. The meaning of legal discrimination can be illustrated with an example from a report made to the EU’s Fundamental Rights Agency: a woman born in Italy to non-Italian parents, a graduate in social science, worked in Rome municipality on a temporary contract for 18 months, but did not get her contract renewed on the grounds that she did not have Italian citizenship. She was the only one of her intake whose contract was not renewed. This was a person born in Italy, who spoke Italian as a first language, and had received all her education in Italy.

Legal discrimination therefore relates to a type of ‘non-prohibited’ discrimination. It refers to unequal treatment in access to the labour market which is justified in law, such as denying the access of permanently-resident third country nationals to certain occupations, typically those in the public sector. In some EU countries, access to civil service jobs, or even work in hospitals or public transport, is in practice virtually closed to non-nationals, particularly if they come from a non-EU country (FRA 2011a: 66-68). This means that a long-term resident, or even someone who has been born in a country and knows no other home, can be legally denied access to major sections of labour market opportunities.

The EU’s Racial Equality Directive outlaws direct or indirect discrimination based on racial or ethnic origins in relation to nationals of third countries. However, the Directive makes it clear that it “does not cover differences of treatment based on nationality and is without prejudice to provisions governing the entry and residence of third country nationals and their access to employment and occupation”. Laws and administrative restrictions governing the access of third country nationals to employment are in principle legitimate, unless it can be proven that discrimination has taken place on the grounds of ethnic/racial origin.

Many examples have been reported in the last 10 years or so which would fall under the heading of legal discrimination, involving restricted access to the public sector. For example, a 2006 report by Amnesty International criticised the law in Estonia that prevented non-citizens from working as state or municipal public officials, which had negative effects on the employment opportunities of the Russian-speaking minority. (FRA 2007: 64). In Italy in 2009, five long-term legally-resident non-EU nurses were excluded from a selection process by a major hospital in Genoa, on the grounds that they did not possess Italian or EU citizenship. The head of personnel at the hospital insisted that nurses were public officials, and only Italian citizens could be appointed (FRA 2010a: 55). For many years France restricted its public sector jobs to people with French nationality – about five million jobs. (FRA 2007: 63). In 2005 France opened up its civil service employment to EU citizens (FRA 2011a: 68), but non-EU nationals can still only be employed as contract or temporary employees in the public sector.

Because states have the right to distinguish between citizens and non-citizens, this practice is not discriminatory according to law, and therefore some legal scholars might consider that it should not fall under the heading of ‘discrimination’. Nevertheless it could be seen to be discriminatory from a sociological standpoint (Banton 1992: 73).

Conclusions

The 'no problem here' fallacy is seen as rooted in two factors. Firstly, there is the fact that most ethnic discrimination operates in ways which is invisible to most people, including the victims. It often takes targeted investigations and research to bring to light the evidence which otherwise would remain below the surface. The various types of research evidence described in the first part of this paper, when taken together, demonstrate the tenuousness of the first part of the 'no problem here' fallacy.

Secondly there is a common misunderstanding of the nature of racial or ethnic discrimination, something that might be called the 'bad apple' syndrome. This is the assumption that ethnic discrimination is something carried out only by racists and those operating with ethnic prejudices. The second part of this paper listed and conceptually distinguished various types of ethnic discrimination, and the variety of forms that these exclusionary processes take: they might be the results of actions of individuals, or they might stem from the workings of organisations and social institutions; they might operate individually, or they might function simultaneously, potentially interacting with each other in various ways to produce complex experiences of exclusion over long periods of time.

In conclusion, the factor of discrimination should clearly be included as one of the forces which lie behind the labour market inequalities experienced by minorities, migrants and their descendants. The evidence shows that processes of ethnic discrimination exist as a part of the routine operation of the institutions of society, and are not simply a result of the actions of a minority of racists.

REFERENCES

- Banton, M. (1992) "The Nature and Causes of Racism and Racial Discrimination" *International Sociology*, 1, 69-84.
- Beauchemin, C., Hamel, C., Lesné, M and Simon, P. (2010) 'Discrimination: a question of visible minorities' *Population and Societies* No. 466, April, 1-4
- Bertand, M. and Mullainathan, S. (2004) "Are Emily and Greg more employable than Lakisha and Jamal? A field experiment on labor market discrimination" *American Economic Review* 94, 991-1013.
- Craig, R. (2010) "Systemic Discrimination and Positive Duties: Regulating Workplace Equality through Employer-Driven Self-Regulation" conference paper, *15th International Metropolis Conference*, The Hague, October
- Drew, D., Gray, J. and Sime, N. (1992) *Against the Odds: The Educational and Labour Market Experiences of Black Young People* Sheffield: Employment Department Research and Development Paper No. 68
- Drydakis N and Vlassis M (2010) Ethnic Discrimination in the Greek Labour Market: Occupational Access, Insurance Coverage and Wage Offers. *The Manchester School* 78(13): 201–218.
- EUMC (2005) *Racism and Xenophobia in the EU Member States: trends, developments and good practice. Annual Report 2005 – Part 2*, Vienna: European Monitoring Centre on Racism and Xenophobia
- EUMC (2006) *Annual Report on the Situation regarding Racism and Xenophobia in the Member States of the EU* Vienna: European Monitoring Centre on Racism and Xenophobia
- EUROFOUND (1996) *Preventing Racism at the Workplace: A report on 16 European countries*, European Foundation for the Improvement of Living and Working Conditions, Luxembourg: Office for Official Publications of the European Communities
- Fibbi, R., Kaya, B. and Piguet, É. (2003) *Le Passeport ou le Diplôme?* Neuchâtel: Swiss Forum for Migration and Population Studies.
- FRA (2007) *Annual Report 2007*, Vienna: European Union Agency for Fundamental Rights
- FRA (2008) *Annual Report 2008*, Vienna: European Union Agency for Fundamental Rights
- FRA (2009a) *EU-MIDIS Main Results Report*, Vienna: European Union Agency for Fundamental Rights
- FRA (2009b) *Annual Report 2009*, Luxembourg: Publications Office of the European Union
- FRA (2010a) *Annual Report 2010*, Vienna: European Union Agency for Fundamental Rights
- FRA (2011a) *Migrants, Minorities and Employment: Exclusion and discrimination in the 27 Member States of the European Union*, Luxembourg: Publications Office of the European Union
- FRA (2011b) *Annual Report – Fundamental rights: challenges and achievements in 2010* Luxembourg: Publications Office of the European Union
- FRA (2014a) *Roma survey – Data in focus, Poverty and employment: the situation of Roma in 11 EU Member States* Luxembourg: Publications Office of the European Union
- FRA (2014b) *Roma survey – Data in focus, Education: the situation of Roma in 11 EU Member States* Luxembourg: Publications Office of the European Union

- Goldberg, A. and Sauer, M. (2004) *Die Lebenssituation von Frauen und Männern türkischer Herkunft in Nordrhein-Westfalen*. Ergebnisse der 6. Mehrthemenbefragung, Duisburg-Essen: Stiftung ZfT
- Harrison, M., Law, I. and Phillips, D. (2006) *Migrants, Minorities and Housing: Exclusion, discrimination and anti-discrimination in 15 Member States of the European Union*. EUMC, Luxembourg: Office for Official Publications of the European Communities
- Heath, A.F. and Cheung, S.Y. (eds.) (2007) *Unequal Chances: Ethnic Minorities in Western Labour Markets*, Oxford: Oxford University Press
- Hjarnø J and Jensen T (1997) Diskrimineringen af unge med invandrerbaggrund ved jobsøgning. *Migration papers no. 21*. Esbjerg: South Jutland University Press.
- Makkonen, T. (2007) *European Handbook on Equality Data: Why and how to build a national knowledge base on equality and discrimination on the grounds of racial and ethnic origin, religion and belief, disability, age and sexual orientation*, Luxembourg: Office for Official Publications of the European Communities
- Midtbøen, A.H. and Rogstad, J. (2012) *Diskrimineringens omfang og årsaker: Etniske minoriteters tilgang til norsk arbeidsliv*. Oslo: Institutt for samfunnsforskning.
- Misplon, R. and Holderbeke, F. (2006) "Alloctonen op zoek naar werk" in Steunpunt Werkgelegenheid, Arbeid en Vorming, *Jaarboek 2005: De arbeidsmarkt in Vlaanderen [Yearbook 2005 the Labour Market in Flanders]* Leuven, 153-170
- Moss, P. and Tilly, C. (2001) *Stories Employers Tell: Race, Skill and Hiring in America*, New York: Russell Sage Foundation
- Pager, D. and Shepherd, H. (2008) "The Sociology of Discrimination: Racial Discrimination in Employment, Housing, Credit and Consumer Markets" *Annual Review of Sociology* 34, 181-209 (available at: <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2915460/>; page numbers relate to online version)
- OECD (2010) *Open for Business: Migrant Entrepreneurship in OECD Countries*, Paris: OECD Publishing
- OECD (2013) *International Migration Outlook 2013*, Paris: OECD Publishing
- Runnymede Trust (2000) *The Future of Multi-Ethnic Britain (The Parekh Report)* London: The Runnymede Trust
- Samson, W. (2008) "Institutional Discrimination" in R. Schaeffer (ed) *Encyclopedia of Race, Ethnicity and Society*, Thousand Oaks, California: Sage, 727-730
- Schiller, B. (2004) *The Economics of Poverty and Discrimination*, 9th ed. Upper Saddle River, NJ: Pearson, Prentice Hall,
- Simeon, L., Taran, P. and Gächter, A. (2010) 'Situation Testing' *Discrimination in Access to Employment based on ILO Methodology* International Migration Programme, Geneva: International Labour Office
- Williams, M.S. (2000) "In Defence of Affirmative Action: North American Discourses for the European Context?" in E. Appelt and M. Jarosch (eds.) *Combating Racial Discrimination: Affirmative Action as a Model for Europe*, Oxford: Berg, 61-79
- Wilson, W.J. (1996) *When Work Disappears: The World of the New Urban Poor*, New York: Vintage Books

- Wrench, J. (1991) "Gatekeepers in the Urban Labour Market: Constraining or Constrained?" in M. Cross and G. Payne (eds) *Work and the Enterprise Culture* London: Falmer, 188-209
- Wrench, J. (1995) "Racism and the Labour Market in Post-War Britain: The 'Second Generation' and the Continuance of Discrimination" in M. van den Linden and J. Lucassen (eds) *Racism and the Labour Market: Historical Studies* Bern: Peter Lang
- Wrench, J. (2000) "Combating employment discrimination in Europe: national variation and the dawn of 'good practice'" in E. Appelt and M. Jarosch (eds) *Combating Racial Discrimination: Affirmative Action as a Model for Europe?* Oxford: Berg, 259-278
- Wrench, J. (2015) "Dubious types and boundary disputes: contested understandings of concepts of discrimination" *12th IMISCOE Annual Conference: Rights, Democracy and Migration*, University of Geneva, June 2015
- Zegers de Beijl, R. (ed) (2000) *Documenting Discrimination against Migrant Workers in the Labour Market: A comparative study of four European countries*, Geneva: International Labour Office

John Wrench
Centre for Diversity and Inclusion
NTNU Social Research
Norwegian University of Science and Technology
Trondheim

john.wrench@samfunn.ntnu.no