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Detecting Discrimination Against Migrants

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Detecting Discrimination Against Migrants

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Abstract:

Today, world regions and countries are at very different stages of facing the fact of discrimination against migrants. Drawing largely on international comparison, arguments in this ZSI DP 3 particularly emphasise a critical analysis of how to conduct research concerning the existence of discriminatory attitudes and practices. The opportunities and pitfalls of diverse methodologies are illustrated with examples mostly, though not exclusively, of a European provenance. Some tried and tested training approaches in order to influence attitudes and practices are presented, as well as suggestions about other ways forward.

1. Introduction

Racism, xenophobia, discrimination are hard to eradicate. It may not be possible at all, but this is no invitation to fatalism. At least, we should all learn to control the impulse, the sentiment and the behaviour as best as possible. Minds can control racism and discrimination in themselves and, through social pressure, also in others, at least to some degree, even if the eradication of racism, xenophobia, scapegoating and so on cannot be achieved. A necessary condition is awareness of the phenomena in oneself and in others. Only awareness will foster acceptance of the fact that there is a problem. In order to make the phenomena discernable and in order to make the problems accepted, as will be argued below, research is a primary tool.

Immigrants have frequently been the target of lethal violence, violent assaults, threats and verbal abuse, publicly expressed hatred, or have seen their property damaged, destroyed or desecrated (see Virtanen 2001; Stalker 1994:75). Much attention has been paid to this in the EU, including the establishment of a European Monitoring Centre on Racism and Xenophobia (EUMC). Although my presentation will have a European bias, for which I apologize, the phenomena are global, and have always been.

Not included, for reasons of space, are discussions of the ramifications of irregular status, of the hypothetical causes, origins and triggers of discrimination, country and city examples, other thematic areas than income opportunities, nor gender aspects. The remaining topics are discussed only in outline.

2. Migration

Talking about international migration it is essential to distinguish between stocks and flows. Flows are made up of the people who moved abroad during a given period of time, usually one year. Stocks, by the UN definition, are made up of the people currently residing in a country other than the one they were born in. There are many other definitions of flows and, especially, of stocks. The difference between definitions has a large impact on the numbers.

Some recent estimates on the size of the migrant population in the world may be useful.

“Around 175 million persons currently reside in a country other than where they were born – about three per cent of the world’s population. The number of migrants has more than doubled since 1975, and sixty per cent of the world’s migrants currently reside in the more developed regions, with 40 per cent living in the less developed regions. Most of the world’s migrants live in Europe (56 million), Asia (50 million) and Northern America (41 million). Almost one of every 10 persons living in the more developed regions, but only one of every 70 persons in developing countries, is a migrant. In the 10 years from 1990 to 2000, the number of migrants in the more developed regions increased by 23 million persons, or 28 per cent” (UNPD 2003b).

These numbers refer to current stocks of international migrants. They include refugees, but migrants in an irregular status are probably only partially included. They include citizens born abroad who later moved to the country of their citizenship, but they do not include non-citizens born in the country. In Europe, where there are many small countries, there will, of necessity, be more international migration than in North America or Asia. The numbers would be substantially larger, if people were included who lived abroad some time during their life but do not currently do so, i.e. the number of people with migration experience far exceeds the number of current migrants.

To add some equally recent numbers on migration flows:

“In the five years from 1996-2000, the more developed regions of the world received nearly 12 million migrants from the less developed regions, about 2.3 million migrants per year. The number of net migrants amounted to 18 per cent of the number of births, and the net migration accounted for two thirds of the population growth in the more developed regions. The largest gains per year were made by Northern America, which absorbed 1.4 million migrants annually, followed by Europe with an annual net gain of 0.8 million” (UNPD 2003b).

Given these numbers it will be self-evident, almost, that the world migration matrix is becoming more diverse. Certainly in Europe, more countries than used to be are now receiving countries, not only through the addition of Central and Eastern European countries to the club but also because immigration to Mediterranean Europe has picked up considerably since the mid-1980s. At the same time, the spectrum of migrant origin countries has become more diverse for each of Europe’s receiving countries. Asylum-seekers and other migrants alike come from a wider selection of countries than used to be the case, and average distances have been growing. Labour migrants used to come from within Europe. There is a large question mark whether this will continue to be the case. Asylum-seekers used to originate from nearby eastern countries while now they originate almost exclusively from Asia and Africa. Thus it is necessary for most Europeans to acquire a new mindset regarding migration. More activity in receiving migration will now be required of each state and of each individual.

All these numbers, of course, beg the question how we can know all this. The methods of migration statistics do, however, go beyond the scope of this paper (see, for instance, Billsborrow et al. 1997 or ILO 2000).

Most migration is not international. This has partly to do with distance. The large majority of moves is over distances of less than 100 kilometers. In part it also has to do with borders as such, with language differences, with the very limited transferability of skills, with the particular costliness of having to live in an unfamiliar place or in a place without relatives and friends to fall back on.

There are many different categories of international migration both from a legal and a behavioural point of view. Not all of them offer the same opportunity for discrimination, and not all of them offer the same opportunity for action against discrimination and for redress. Below (p. 6), a graphical outline of the various kinds of foreign citizen categories is given (ILO 1997, 2002), as distinct from the foreign-born of the UN Population Department’s data cited above. Some notes on the diagram:

- Migrants in an irregular situation are not a group cleanly separated from migrants in a perfectly regular status. For one thing there are many shadings of irregularity, and secondly those in an irregular situation are frequently close relatives or friends of migrants in a regular status. (In Europe, Article 8 of the European Human Rights Convention binds them together legally. In France, since 1998, this has been sufficient grounds for a regularisation of status.)
- Irregular entry forms one of the three major categories in the scheme, and it is the only one of necessity leading to an irregular stay and irregular economic activity. Visa overstaying is not included here, although in some countries the legal system does make the entry irregular retroactively upon overstaying the visa or upon taking up employment contrary to the stipulations of the visa. Migrants in an irregular situation are much more difficult to protect than others.

- The largest part of the scheme is taken up by the regular entrant category. In all its ramifications it includes 20 subcategories of migrants. It is important to note that they all can lead to irregular stay or irregular activity or both.
- Refugees form the third major category. Temporary protection is not included here but in the “other” subcategory of regular entry as “forcibly displaced persons”.

We will not go into the definitions of all the subcategories (see ILO 1997, 2002).

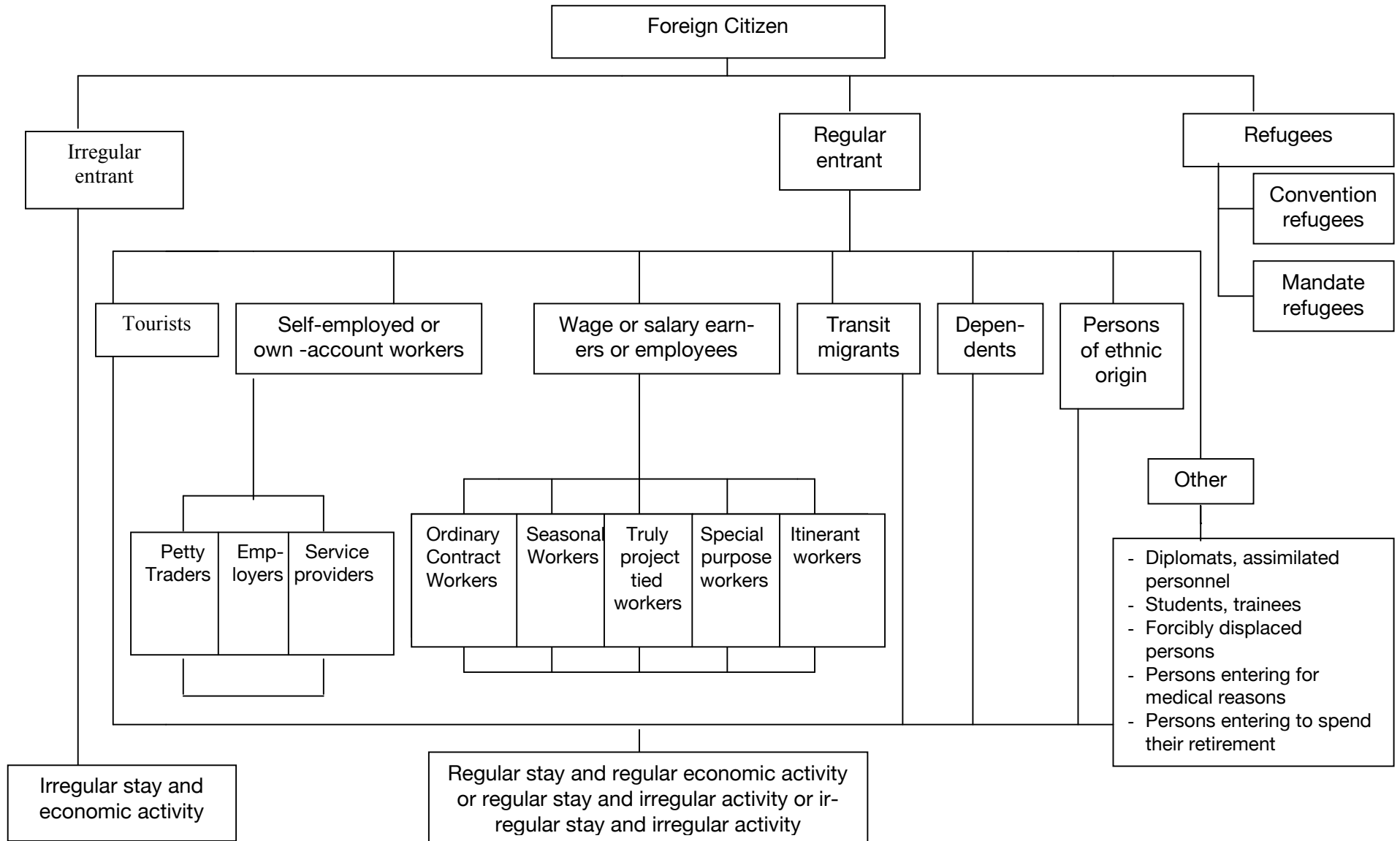
Under the General Agreement on Trade in Services (GATS), effective for 116 signatories since the beginning of 1995, some of the regular entrant subcategories have in theory become more liberally available. Actual practice does not always reflect this.

“Three broad categories of temporary entrant have emerged from the GATS rules on movement of natural persons: business visitors, intra-company transferees, and foreign qualified professionals and practitioners. Business visitors are generally permitted to remain in the host country for a brief period of time (usually no more than 90 days) and are prohibited from receiving payment from an entity outside that country. Intra-company transferees, foreign employees of MNCs operating within a member country, typically remain for a longer period of time – between two and five years – and may receive payment within the country. Like intra-company transferees, foreign qualified professionals and practitioners are employed temporarily in a host country, but they are not tied to an affiliate or branch of an MNC. Most signatory States have, in their specific schedules of GATS commitments, made provision for the entry of all three categories” (Christian 2000:1f).

“Importantly, the movement of natural persons under the GATS is an exclusively temporary phenomenon; it does not encompass persons seeking permanent employment, permanent residence, or citizenship in a signatory State” (Christian 2000:1).

Migration for temporary employment has long been receiving major attention by international bodies, since governments frequently believe temporary migration of workers to be in their best interest. In the 1990s, for the first time since the 1960s, the temporary migration of the highly skilled was investigated again, and this is reflected in the GATS. The longer term migration of the highly skilled is linked to the age-old concern over “brain drain” (Lowell/Findlay 2002), i.e. the detrimental effects of emigration on origin country development and well-being.

Figure 1: Main Categories and Subcategories of Non-citizens



3. Migrants and discrimination

3.1 Varieties of discrimination

Regarding migrants and discrimination there are a few important points to be kept in mind:

- It is the stocks that matter, not the flows, since it is the people currently being migrants who experience the discrimination, although it is newcomers in particular who are prone to suffering discrimination. This is not to say they are aware of the discrimination, or that if they are aware, they will be willing to admit to it. Likewise, earlier migrants not currently residing abroad may also have experienced discrimination but may not choose to remember.
- Discrimination is not unique to international migration. It is an important feature also of internal migration.
- We cannot divide humanity into a share that is being discriminated and a share that discriminates. To be discriminated against is no protection from discriminating.
- Discrimination against migrants can be individual or institutional. Discrimination is institutional when there are rules, obligations or structures depriving the individual of the choice not to discriminate.
- This is different from what has sometimes also been called institutional racism but would better be named organisational racism: “the collective failure of an organisation to provide an appropriate professional service to people because of their colour, culture or ethnic origin. It can be seen or detected in processes, attitudes and behaviour which amounts to discrimination through unwitting prejudice, ignorance, thoughtlessness and racist stereotyping which disadvantage minority ethnic people” (Wrench/Modood 2001:38 after the MacPherson Report).
- When individuals discriminate, whether by choice or institutionally, they do so as participants in a community. Since the boundaries of communities are often ill defined, discrimination tends to be situational – depending on context it may or may not occur. Individuals may discriminate when they feel a need to re-affirm the boundary around them, i.e. the boundary uniting them, but there may be other situations when this need does not arise. Therefore, behaviour in one situation is a poor guide to the same person’s behaviour in another situation. The criteria determining the choice of discrimination are only poorly understood at present.

3.2 Discrimination by the law

All these distinctions rely on citizenship and other legal concepts. However, immigrants or their descendants may accept or acquire host country citizenship. One of the arguments frequently advanced by immigrants against doing so is that “it won’t change anything – I will still be discriminated.” But this is only one side of the coin for the other is that naturalization does indeed remove most, and usually all legal discrimination. Immigrants realize this fully well, and if they don’t naturalize themselves, their children usually do. The point here is, and it cannot be stressed enough, that non-citizens suffer both discrimination formally proscribed by the law and informal discrimination that may in fact often be proscribed by the law (and should be where it is not). The discriminatory scope and power of national(ist) legislation should not be underestimated but remains under-researched in both its causes and its effects, and even in its

extent. For instance, John Wrench wrote of Austria that it is “a country where the legal discrimination operating against migrant workers through national policy is so comprehensive that it overshadows any discrimination which might operate at the informal level” (Wrench 1996:35, 72). The situation he describes has since been remedied to some degree for some groups but the incremental process of doing so is far from complete, and for recent immigrants the legal situation has been getting worse.

Waldrauch (2001), in a sophisticated analysis, showed how much the laws discriminated in Europe in 2000. For seven states and six areas of law, an index was constructed running from zero (perfect legal equality to nationals of the country) to one (perfect inequality). In addition, an overall index for each of the states was constructed. The results vary from a favourably low overall index of 0.22 in the Netherlands to a value of more than double that, i.e. 0.46 in Switzerland. Austria also comes out with a high index of 0.44, while Belgium and France are two other countries with fairly low values. Germany and the UK are in the middle with 0.36 each. The differences between countries are not the main point. The main point is the strength of discrimination by the law as such.

Table 1: The index of discrimination by the law in 2000

	Residence	Family reunion	Em- ployment	Social Rights	Civil and political rights	Naturali- zation	Total
Austria	.35	.51	.49	.27	.54	.55	.44
Belgium	.25	.23	.20	.23	.52	.20	.26
Switzerland	.58	.42	.41	.27	.42	.57	.46
Germany	.45	.43	.29	.24	.45	.35	.36
France	.28	.28	.15	.21	.48	.40	.29
Netherlands	.31	.21	.17	.14	.21	.24	.22
UK	.42	.42	.28	.44	.22	.45	.36
Spread	.33	.30	.32	.30	.33	.37	.24

Data source: Waldrauch 2001:522, 531, 536, 550, 553, 559.

The overall index is a weighted average of the six area indices for each country. The first area covers residence rights, the second the right to family reunion, and the third the law on access to employment. The fourth area is that of social rights. It is made up of social insurance (unemployment, health, pension, work accidents) and non-insurance public welfare. Civil rights include eight basic freedoms, i.e. freedom of the person (habeas corpus), of undisturbed possession of premises, of property, of assembly, of association, of opinion and of speech, of religion, and equality before the law. Political rights comprise the franchise, labour representation, and access to public service employment. As may be expected, inter-state variation is much larger in each of the area indices than in the overall index. This indicates that the legal systems of the different countries tend to include differing trade-offs between rights in some areas and denial of rights in others.

In Europe, prescribed discrimination hurts immigrants and their families almost exclusively. Naturalisation requirements have recently, by and large, been becoming more liberal. Among industrially developed countries the starkest exception to the trend is perhaps Japan where the descendants of Korean immigrants find it almost impossible to acquire citizenship.

Discrimination by the law may start well before migration, and may in many instances be the cause of migration rather than its consequence. Minorities of one kind or another tend to be

over-represented not only among asylum applicants – where this would of course be expected – but among labour migrants as well. Partly this may be due to national development efforts being focused on the national majority population or on geographical areas where that population is found, and partly it may be due to discrimination by majority employers – not least the various levels of government. Further, not all citizens of all countries have equal access to the chance to obtain a visa for the destination country of their choice. In a world of nation states severely limiting the individual right to change residence and to look for work in a world labour market, migration is becoming partially dependent on a variety of transgressions of the law. We do not have the space here to go into the multifarious and nefarious consequences of this state of affairs except to note the deaths and the effective enslavements that occur as a consequence (Taran/Moreno-Fontes Chammartin 2002). Further, migrants in an irregular situation may be denied such rights as to marry, renting accommodation, employment, schooling, health services, and may for all these become dependent on services provided clandestinely through a shadow economy and at inflated prices.

It is now widely recognised, but as yet politically inconsequential, that restrictive migration regimes breed irregularity, and nothing else could reasonably be expected: “To put it in perhaps oversimplified terms: basic labour economics theory would suggest that placing restrictive barriers between high demand and large supply creates a potentially lucrative market for services of getting the supply to where the demand is. ... The flow of low-skilled migrants to more developed regions is channelled by clandestine means precisely because of the non-existence of legal migration categories that would allow for their legal entry in many destination countries. Once they are in host countries, they remain confined to jobs in unstructured or informal sectors, in irregular work and under exploitative conditions of employment” (Taran/Geronimi 2002: 7). The statement echoes others, such as that by Rita Süßmuth, member of the former conservative German government and, in 2001, chairperson of the government appointed commission to devise a reform of German aliens law, as quoted by the Economist (2002-11-02): “If you are very strict, you have more illegals.” (One hastens to add that there is no such thing as an “illegal”, i.e. an illegal person. A status, a situation, or an action can be illegal but never a person.)

Today, the migration regimes of European countries in particular rule out the recruitment of labour from abroad except for very special categories of workers. This prohibition is fairly effective except for that part of the economy engaging in illegal activities (primarily the drug trade and sexual services). Here the added illegality of recruitment makes no difference and may, in fact, many times be the only way to secure a sufficient supply of suitable and suitably pliant labour. In order to satisfy this specific demand for labour a new trade in humans has sprung up. “Trafficking involves conditions, services and outcomes that go far beyond the transportation and border crossing elements, involving forced labour of victims for an indefinite period of time, putting them in a contemporary form of debt bondage, and deriving considerable profit from this exploitation. (While smuggling of migrants often involves a mutual interest between the smuggler and the smuggled, trafficking in human being constitutes a crime against persons)” (Taran/Moreno-Fontes Chammartin 2002: 7).

Forced labour is defined in Article 2, Point 1 of the Forced Labour Convention, 1930 (No. 29): “For the purpose of this Convention the term ‘forced or compulsory labour’ shall mean all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself [or herself] voluntarily.” The Forced Labour Convention today remains one of the core instruments at the ILO and is directly relevant for the trafficking issue. It is also one of the most widely ratified Conventions: 163 countries have done so.

Overall, the size of the effects of intentional, formal discrimination is not known well at all, since research has been lacking.

4. Applied research on discrimination between private agents

4.1 Research approaches

Discrimination between private agents, often termed informal discrimination, is not easy to detect, much less to prove. Lawmakers have been struggling with the question of whom to place the burden of proof on, the accused or the accuser. Similarly, researchers have either been inferring discrimination from unequal outcomes or have been trying to prove it directly. This cuts both ways. Discrimination may seem to exist only because other causes of differential outcomes have not been taken into account. On the other hand, racism may be discovered in the absence of complaints about it. As John Wrench put it: “Sometimes there are open acts of discrimination which are recognised by those who experience it; more commonly, they operate quietly, unrecognised by the victims, and are only discovered through specific investigations. The concealed nature of many of these processes leads to the danger of underestimating the extent of labour market discrimination at any one time” (Wrench 1999:27).

The necessity for viable and comparable statistics has been underlined many times. The truth today is that in spite of UN and regional efforts to guide and train national statistical offices, the diversity of legal regulations, popular apprehensions and state traditions provide for an almost complete incomparability of data (see, for instance, www.compstat.org or www.madiera.net). Popular apprehensions, at least in Europe, are linked to past misuse of data by the state. This is especially pronounced in Germany, Austria, Italy and Eastern Europe. In other countries, such as Norway or the Netherlands, where misuse may have occurred only at the hands of occupation forces, citizens tend to be quite trusting. We can, of course, not be certain that powers will remain as balanced and thus the states as democratic as they currently are.

Statistical data are often thought to be able to show conclusively in themselves that discrimination exists. This is, unfortunately, not so. Instead they are merely the material for research attempting to discover discrimination and the extent to which it occurs.

Research approaches aiming to discover and describe discrimination against migrants can be categorised as follows:

1. Collection of testimony or evidence from migrants and minority members, from watchdogs or police reports;
2. Research into agent behaviour, for instance through the method of discrimination testing;
3. Inter-group comparisons, mostly of a statistical nature, relating outcomes to inputs;
4. Research into attitudes, usually either employing text analysis or survey techniques.

Below we will look at the four in turn, albeit briefly. Most attention has been focusing on access to employment, on working conditions, and on the degree to which immigrants are being permitted to participate in the upward mobility of employees within enterprises. The discriminatory techniques used in these areas do not differ, though, from those used in other areas. The law as a determinant of attitudes and behaviour or practice has been surprisingly absent from research.

An important caveat must be added at this point. None of the four approaches represents research into the causes of discrimination. Faundez (2003) refers to some of the salient hypotheses about the causes but it would be a vast exaggeration to claim we know the causes, origins or triggers of discrimination. Although, for policy purposes, a clear idea of what precisely appears to be causing differential outcomes is a matter of the greatest importance if interventions are to be efficient and to the point, avoiding unintended and almost certainly counter-productive side effects, such knowledge is not currently available. The four approaches outlined in this chapter are merely about finding out how much discrimination there is, or how much propensity to discrimination. Even so, to make statements about the existence of discrimination is a touchy and often contentious thing to do. At minimum, therefore, this requires a highly conscientious use of figures and a very, very careful, probing, and circumspect approach to interpretation.

4.2 Collecting information on incidents

A good example for the collection of information on incidents can be found in the European Statistical Atlas on Racial Violence (Virtanen 2001). For the years from 1995 to 2000 it presents information for each of the 15 EU member countries on five categories of crime committed specifically against migrants and minority members:

- Lethal violence
- Violent assaults against a person
- Threats against a person
- Incitement to racial hatred and violence
- Damage to property.

The Atlas only covers violence, not ‘softer’ forms of discriminatory behaviour in public such as media reporting (see Sørensen 2003). “The Statistical Atlas on Racial Violence brings together information on racial violence collected for the European Monitoring Centre on Racism. It reflects developments in crime recording practices in the EU Member States, and in the cooperation that exists between the EU Member States both in the sharing of data but also in exploring the different definitions used within governmental agencies, and NGOs” (Virtanen 2001:100). Atlas data are not specific to migrants but include all kinds of minorities. Similar information is now being collected on a regular basis by the EUMC’s RAXEN network that has been established in all EU member countries and is about to be expanded to the new members. The information in the Atlas is based partly on police statistics and partly on NGO reports, and at times they are placed side by side. There are large difficulties and uncertainties associated with such an exercise:

- It proves difficult and ambiguous to delimit precisely which crimes should be included. If the perpetrator’s motivation is the defining criterion, there will always be uncertainty. “Do not use any figures from the Atlas without referring to the technical information provided” (Virtanen 2001:16). The technical information for one thing contains a discussion of (legal) definitions, for it proves difficult and ambiguous to delimit precisely which crimes should be included. Even internationally given definitions tend to be interpreted differently and adhered to differentially in individual countries. Should, for instance, killings of persons who are not themselves migrants be included when the motivation for the attack was migration-related? Should deaths of police officers be included if they were killed in hot pursuit of suspects of an act believed to be racially motivated?

- The other large technical issue is data collection. Should inclusion in the count be based on formal complaints to the police or other relevant authorities, on court charges, on convictions?
- Can we be sure all incidents or offences were discovered and recorded? That we cannot is perhaps the most obvious drawback of studies of incidents.
- “Nations differ widely in the way they organize their police and court systems, the way they define their legal concepts, and the way they collect and present their statistics” (Virtanen 2001:1f). In fact, the lack of uniform definitions of racial crime offences, of common measurement instruments and of common methodology may make comparisons between countries misleading” (Virtanen 2001:1f). Therefore, “do not stress differences between individual countries too much. It is better to compare an individual country with a larger group of countries” (Virtanen 2001:16).
- “Whenever possible, avoid using official crime figures for ‘level’ comparisons between countries. Rather, they should be used for ‘trend’ comparisons. Absolute comparisons between recorded crime levels in different countries may be misleading” (Virtanen 2001:16). “It should be noted that crime statistics are fundamentally dependent upon three sets of circumstances: (i) actual circumstances such as the propensity of individuals to commit racial crimes, the opportunity structure, the risk of detection, the efficiency of criminal justice authorities, the willingness of the victims and the public to report crimes, the resources of NGOs to collect and publicize racist crimes; (ii) legal circumstances such as the design of the Criminal Code, the Code of Criminal Procedure and other relevant legislation; the formal organisation of criminal justice agencies and the informal application of the law in everyday life; and (iii) statistical circumstances such as formal data collection as well as processing rules and their practical implementation” (Virtanen 2001:2).
- “Avoid interpreting ‘large’ variations from one year to another as evidence of changes in the measured phenomenon. Sudden increases or decreases are often merely indicative of modifications in the law or in the underlying statistical routines or counting rules” (Virtanen 2001:16). “To ensure comparability when making distribution and level comparisons, one must carefully control for the legal and statistical circumstances before concluding that similarities or dissimilarities may be taken as real. The demands are somewhat different when it comes to ascertaining crime trends. For such analyses, the real crime level does not need to be known; it is sufficient to control for possible changes in the legal and statistical systems. This is of course a difficult task, and identifying informal changes in criminal justice or NGO statistics procedures and statistical routines is especially difficult” (Virtanen 2001:2f).
- If it were possible, the number of incidents should be set in relation to the size and composition of the minority population. “It should be noted that the research reported in the Atlas is based on raw data, instead of rate data presented relative to the number of the immigrant population in the Member States” (Virtanen 2001:16). This actually is a major reason why levels should not be compared between countries: 1,000 incidents in a population of one million in one country would be little in comparison to 10 incidents in a population of 1,000 in another country. Rates are often difficult to compute because the size of the immigrant or the minority population in many countries is only incompletely known. Knowing the mere size of the population may not suffice for meaningful comparisons. Immigrants who have nothing can not very well have their property damaged, but if they are wealthier in another country this might occur more frequently. The age and gender distribution may also have an impact on the statistics along with regional concentration.

- Further, a well-established population may be more likely to report incidents to the relevant authorities, and may stand a better chance of having them investigated than a more recently immigrated population. A police force or courts with immigrant officers may also be better sensitised and more responsive. Finally, any recent incidents that would have created a public outcry at home or abroad may also make the authorities more sensitive and would therefore increase the number of cases recorded statistically.

The outpouring of all this is that given the data situation it proves to be extremely difficult to make any comparisons either across countries or over time in terms of racial or xenophobic incidents. By the same token, of course, it is not possible to aggregate the data Virtanen collected across countries or even across the five categories of incidents in any one country. Once again comparability proves to be beyond our reach. At the very best we can compare and aggregate merely across years within one category and one country, and even this is often questionable.

“Although it may be impossible to gauge the true extent or quality of racial crime in any country, various indices are available. First, official crime statistics offer data based on police reports and court decisions. Police reports consist of crimes reported to the police by the victim or other persons involved, i.e. offences recorded by the police. In some EU Member States, sentences on racial crimes are recorded, depending on the type of the court and the type of proceedings that are imposed. Second, statistics collected by non-governmental organizations, ethnic minority and other community groups may be a valuable source of data in some EU Member States. Third, qualitative accounts may be used to describe the experience of racist violence in a given group of immigrants and ethnic minorities as well as to describe the perpetrators of racist violence” (Virtanen 2001:3).

“With respect to ongoing development in the area of human rights and racism, the United Nations Human Rights web site contains reviews on the implementation of international human rights treaties. State Party reports submitted to the Committee on the Elimination of Racial Discrimination (CERD) provide information on measures and policies directed against racism and xenophobia. In particular, information relating to articles 2 to 7 of the Convention concerns the criminalization of racist conduct and racist propaganda. Furthermore, most State parties have given out statistics on racial crime in their reports. Similarly, ECRI has published information on legal measures to combat racism and intolerance within the [then] 40 Council of Europe states” (Virtanen 2001:3; see January-Bardill 2003).

Finally, it should also be noted that it is not uncommon for people experiencing discrimination not to admit to it in surveys. Trying to collect the information in survey form rather than from the statistics Virtanen used may therefore be no improvement.

4.3 Research on behaviour and practice

A prominent method in research on actual behaviour is discrimination testing (Fix/Struyk 1992). Here, two or more testers, one seemingly belonging to the majority group, the other to a minority group, apply for the same job or the same apartment or the same training opportunity etc. They are matched as closely as possible for all the criteria that would usually be regarded as relevant, including height and weight and communication skills (Bovenkerk 1999, 1992). “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 ... background” (Wrench 1999:28). In Europe the method was applied in Belgium (Arriijn et al. 1998), Germany (Goldberg et al. 1996), the Netherlands (Bovenkerk et al. 1995) and Spain

(Colectivo IOE/ Pérez Molina 1996) by the ILO (Zegers de Beijl 1999). The testers in all these cases were men between 20 and 25 years. The minority affiliation was Moroccan in Belgium, the Netherlands and Spain, and Turkish in Germany. In 2003, the same research was undertaken by the ILO in Italy, again with young Moroccan men posing as immigrant testers. Other countries will follow. Independent researchers applied the exact same methodology in Denmark with young Pakistani and Turkish men and women (Hjarnø/Jensen 1997) and, in 2003, in Switzerland (only the first two stages) with young Turkish, Portuguese, and Albanian speaking Yugoslav men (Fibbi et al. 2003). In Belgium, Italy and Spain the tests were carried out in cities in three different parts of the country, in Germany in one industrial region, in the Netherlands in the central conurbation, in Switzerland in two labour markets. In one Belgian city, Brussels, and in Denmark the tests were carried out with, both, men and women testers.

The “net discrimination rate” – as computed here, which is different from the original calculations by Zegers de Beijl (1999) – is perhaps best explained by an example. If the majority tester alone had been offered the job in 25 per cent and the minority tester alone in 10 per cent of the cases, then the net discrimination rate would be 15 percentage points ($25 - 10 = 15$). For statistical reasons, a net discrimination rate of less than 15 percentage points was regarded as no evidence of discrimination.

In five of the seven countries the job applications went through three stages. In the first stage the job seekers apply for a vacancy by showing up in person or by telephoning (‘Is this job still available?’). Their application may be taken into consideration or they may be denied a chance to apply (‘We are sorry, the job has just been taken’). In the second stage the applicants may be given the possibility to present their credentials, following which they may or may not be invited for a selection interview (‘Sorry, we are looking for somebody with qualifications other than you have’). In the third stage the interview may result in an actual job offer or a rejection. In Germany, because of the formal requirements of the third stage, the tests only proceeded to stage two. In Switzerland it was stage two only, i.e. the written job application, that was carried out. In Germany, as also partly in Denmark and to a lesser degree in Belgium, Italy and Spain, testers directly enquired from companies about job openings without reacting to a public job offer.

The results show how much more often a person perceived to be a non-immigrant is given a chance for a job than a person perceived to belong to an immigrant minority. As evident from the table below, in the five countries that went through all three stages, the net discrimination rates ranged between 17 percentage points in Denmark and 35 percentage points in Italy around an average of 30.5 percentage points. Looked at from another angle, the male non-immigrant testers had to contact between 1.9 (Germany) and 4.0 (Denmark) employers – average 2.3 – to receive one job offer while immigrants had to contact between 2.3 (Germany) and 58.8 (Netherlands) employers – average 4.8.

Germany and Switzerland were conspicuous for how frequently both testers were offered a job. As in the other countries, though, the immigrant was often offered an inferior job or the same kind of job at inferior conditions.

Table 2: The distribution of job chances in discrimination testing in seven countries, completed valid cases, males

	Cases		A chance for a job was given to (percent)				Net discrimination
	Number	Percent	Both	National	Migrant	Neither	
Belgium	637	100,0	5.8	41.8	8.5	44.0	33
Denmark	231	100,0	0.4	24.7	7.8	67.1	17
Germany	333	100,0	42.6	9.9	0.0	47.4	10
Italy	621	100,0	7.4	39.0	3.9	49.8	35
Netherlands	235	100,0	0.0	28.9	1.7	69.4	27
Spain	468	100,0	1.9	33.1	3.8	61.1	29
Switzerland	1,369	100,0	33.2	14.0	0.4	52.4	14
All Seven	3,894	100,0	17.7	26.0	3.2	53.1	23

Data source: Zegers de Beijl (ed.) 1999:45, 58, 71, 81; Arriijn et al. 1998; Fibbi et al. 2003; Allasino et al. 2004. Calculations by the author.

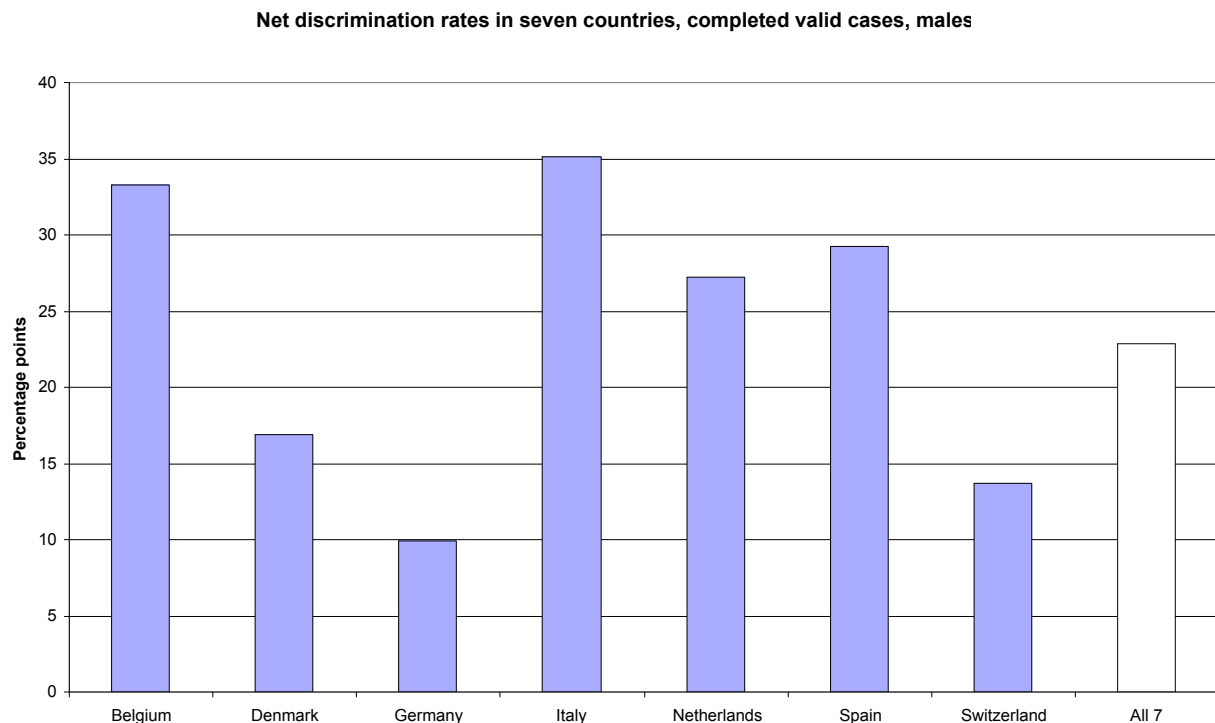
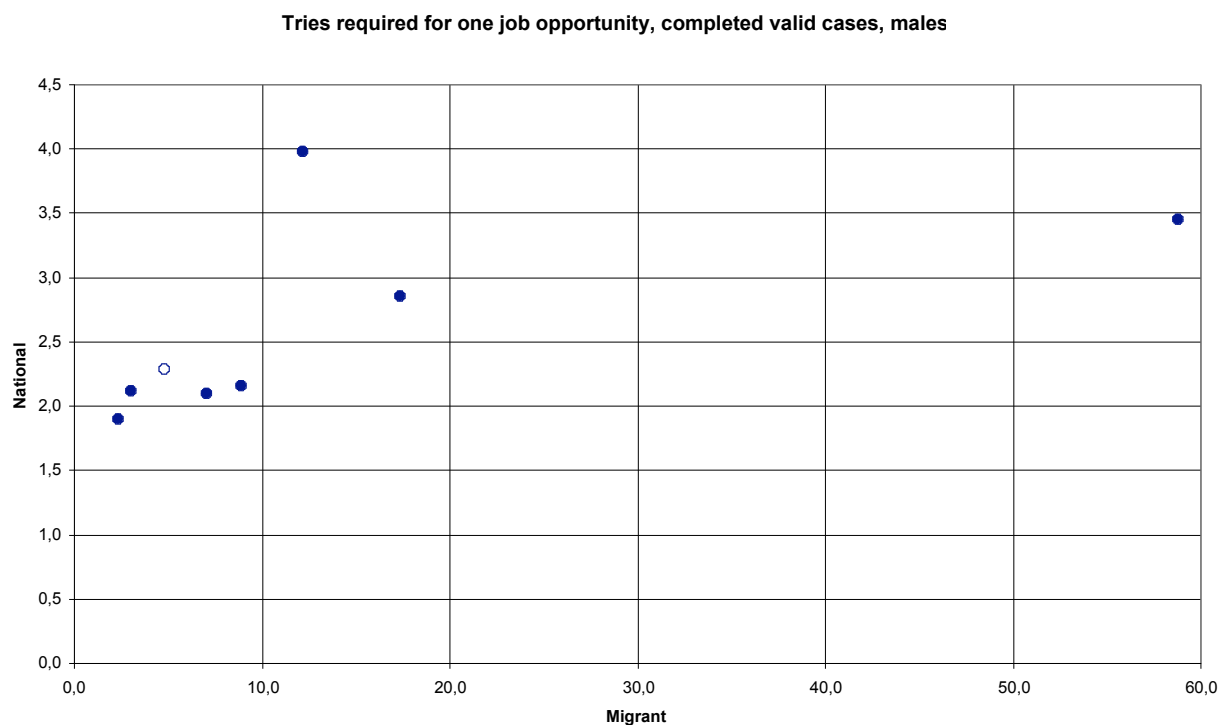
Figure 2:

Table 3: The number of tries necessary for one job offer in discrimination testing in seven countries

	National	Migrant	Migrant multiple
Belgium	2,1	7,0	3,3
Denmark	4,0	12,2	3,1
Germany	1,9	2,3	1,2
Italy	2,2	8,9	4,1
Netherlands	3,5	58,8	17,0
Spain	2,9	17,3	6,1
Switzerland	2,1	3,0	1,4
Total	2,3	4,8	2,1

Data source: Zegers de Beijl (ed.) 1999:45, 58, 71, 81; Arriijn et al. 1998; Fibbi et al. 2003; Allasino et al. 2004. Calculations by the author.

Figure 3:

This research approach is not equally amenable to all kinds of labour markets. Testers, for instance, will not be able to show diplomas, and only occasionally will they be able to give samples of their skills, should these be asked of them. Whenever this occurs the particular test case has to be abandoned. Does this happen frequently only partial results can be obtained. At the other end of the spectrum, when a labour market functions on personal networks only, the method also has its limitations (Heckman 1998; see Riach/Rich 2002).

4.4 Inferring (unobserved) discrimination from the relation of outcomes to inputs

Wrench (1999) cited evidence from various European countries that holding education, sex, age, occupational level, and region constant, the unemployment rates of minority populations were higher than those of the native whites. Here, discrimination may be inferred from different groups achieving differential results in the market in spite of having the same endowments. The discrimination may originate from structures or from agents or both.

Most of this sort of research is based on regression techniques. An important new development in regression-based research on discrimination has occurred over the past 20 years, first through the introduction of Blinder-Oaxaca decomposition (Reimers 1983, 1985; Trejo 1997; Bevelander/Nielsen 2001), then by distinguishing between education, training and experience received before migration and after migration (Kee 1995; Friedberg 2000; Coulon 2001). This has consistently shown schooling received outside the destination country not to be rewarded in the labour market while any education or training received in the destination country will tend to be rewarded. Consequently, the first generation born in the destination country, due to in-country education, receives better wages and enjoys better working conditions than their parents did. By the second generation born in the destination country, the differences become imperceptible, although exceptions persist. This is borne out by related research employing other regression strategies (Neidert/Farley 1985; Granato/Kalter 2001, Kalter/Granato 2001) or non-regression analysis (Ekberg 1994, 1996).

This pattern may be due to the poor transferability of skills from one language to another or the inapplicability of experience gained in one system of labour relations to another, but perhaps not completely so. There is also a wide-spread understanding, often taken to be self-evidently just, that those who come last should be laid off first and should (consequently) be doing the least important and most poorly remunerated jobs. Even if this were just, the hitch often is that the rule is not applied according to tenure in employment but to tenure in residence. Immigrants may be laid off first because they are a later part of the population, not because their employment started later. Worse yet, they may not even be given a chance at employment, but this appears to be more true of the children of immigrants than the immigrants themselves. The “last in, first out” rule has frequently been argued to be unjust, and inefficient in any case, and should be supplanted by the rule that the more productive workers are hired and retained. Rather than going into this further suffice it to note that conceptions of fairness and a just hierarchy are frequently argued to be at odds with economic efficiency.

Modelling labour market outcomes is as much an art as a science. This is even more true of the interpretation of the results. Take, for instance, the Austrian case. Here, even in the 1990s, long-term unemployment was practically unknown among citizens of other countries but of growing prevalence among Austrian citizens. Statistical analysis along the lines reported on above might, if anything, have found discrimination in favour of immigrants. But this is not the case. Rather, the non-EU citizens were subject to a legal system indirectly penalising long-term unemployment with the threat of expulsion. Non-EU citizens were under pressure at all times to cling to the job they had, whatever job it was, and to find employment quickly once unem-

ployed. On both these counts they succeeded. Thus (male) participation rates remained fairly high among the non-refugee non-EU population and unemployment remained of a short-term (often seasonal) nature. The other side of the medal appear to have been fairly low wages, relatively poor working conditions, and a lack of occupational and social upward mobility (Gächter 1995). Thus at minimum it would seem necessary to model unemployment, wage rates and annual incomes simultaneously, and to differentiate between the various patterns of unemployment. And, quite obviously, the assumption present in all the economic models that the forms of participation in the labour market among citizens of other countries are as voluntarily chosen as those among citizens needs to be questioned each and every time. If there is pressure emanating from the legal system, then this pressure needs to be incorporated in the model.

There are two important results from this research:

- Income differences – including having no income – between minorities and the majority tend largely to be due to differential educational attainment when all have received their education in the country and the grossest rights deprivations have been abolished (Heckman 1998).
- The finding that pre-migration education and training are not being rewarded may be indicating that discrimination is, at least partly, against the unknown. States and employers do not trust the education and training institutions in other countries, and make little or no effort to learn more about them. Economists have been terming this situation “information asymmetry”. While the migrants know what they are capable of, the employers do not and can only find out over time, through experience. Given uncertainty about the outcomes, they may make assumptions unfavourable to the migrants, especially to the better-qualified ones that will only be reversed in the long run (Stark 1991:371-380).

Nonetheless, uncertainty shrouds these results. Studies relating outcomes to inputs can never really prove (or disprove) the existence of discrimination, since discrimination (or its absence), in these studies, is an unobserved variable and can only be inferred from outcomes being related to inputs in a different (or the same) manner in all groups. The evidence, therefore, is always only indirect. Further, to show that outcomes differ is one thing, to be certain that only the unobserved and residual discrimination will explain any remaining differences after taking into account a number of other hypothetically determining variables is quite another matter, and requires a large leap of faith.

4.5 Research on attitudes

Research on discriminating attitudes has taken two major tacks. One is text analysis (for instance Wodak & van Dijk 2000), which will not be dealt with here, and the other is survey research.

In the EU and the countries applying for membership the Eurobarometer has been serving as a tool to discover a wide range of attitudes. Attitudes to migrants and minorities were repeatedly included. “The standard Eurobarometer was established in 1973. Each survey consists in approximately 1,000 face-to-face interviews per Member State (except Germany: 2,000, Luxembourg: 600, United Kingdom 1,300 including 300 in Northern Ireland). Conducted between 2 and 5 times per year, with reports published twice yearly. Special Eurobarometer reports are based on in-depth thematical studies carried out for various services of the European Commission or other EU Institutions and integrated in Standard Eurobarometer’s polling waves” (http://europa.eu.int/comm/public_opinion/description_en.htm).

“In total 16,078 people were interviewed in the 15 EU Member States over the period 5 April to 23 May 2000. ... The special survey conducted in spring 2000 [Eurobarometer 53] was the fourth in a series of studies that included questions related to the majority population’s attitudes towards immigrants and ‘out-groups’ (more exactly: minority groups) in the European Union. Analysing possible tendencies and developments over time, the results of the spring 2000 survey are compared with those of a previous study conducted in spring/autumn 1997 [Eurobarometer 47.1]. 12 questions from the 1997 study were used a second time. The European Commission initiated and administered the 1997 survey and previous studies carried out in the years 1988 [Eurobarometer 30] and 1993 [Eurobarometer 39]” (SORA 2001a:10).

There are some important points to be kept in mind when citing comparative surveys such as, for instance, Eurobarometer 47 or 53, as will be done farther below. All the points are taken from a careful analysis undertaken by SORA (Social Research and Analysis).

A first, and very important caveat concerns the comparability of questions across languages and historical contexts. This matters especially when a survey investigates not the attitudes to recent migrants in particular or exclusively but attitudes to minorities in general. “In some EU countries, no distinction is made in terms of language use between minorities and immigrants. In other countries, public opinion towards immigrants and refugees from non-European communities may not be the same as that towards national minority groups. Minority groups may include very different social groups, such as refugees and working immigrants as well as groups with a long [local] history” (SORA 2001a:9). Further problems resulting in bias include

- the diverse political debates in different countries at the time of the survey;
- a vastly different interpretation of identically worded questions in different languages or countries (or even between people of different educational or social backgrounds using the same language);
- refusals were a large problem in five of the fifteen countries; people who refuse to answer individual questions or refuse to answer an interview at all do not necessarily have the same attitudes as those who provide answers. The five countries were Austria, Germany, Ireland, Portugal, and the UK. Interestingly, eight months later, in January 2001, in the Eurobarometer Survey 54, respondents were given a choice between ‘too many immigrants’, ‘not enough immigrants’, and ‘the number of immigrants being about right’. There the five countries with the greatest shares of don’t knows were – in this order – Spain, the formerly communist eastern part of Germany, the UK, Ireland, and France (EEIG 2001). In other words, only two countries were the same, three were different, but this was only one question rather than several as in Eurobarometer 53. It may, however, indicate the importance of circumstance for the willingness to answer, and for the results in general (see SORA 2001b on this important question of non-response and its many facets).

In the European Union, in 1997, people were surveyed for their self-professed racism. There were approximately 1,000 interviews per member country. Respondents were asked to rate themselves on a scale from 1 to 10 of “no at all racist” to “very racist”. In the 15 member EU two thirds of the respondents rated themselves 3 points or less, nearly one quarter rated themselves in the middle of the scale (4 to 6 points), and only one in eleven declared themselves to be racist to a degree of 7 points or more. There were sizable differences between countries but there is no way of telling whether this is due to differences in racism or differences in honesty. Nor do we know how much of the differences may be due to differences in meaning or connotation of the word “racist”. In Belgium 22% gave themselves at least 7 points, in France 16 percent, in Austria 14%, and in Denmark 12%. This amounts, roughly, to 1 in 5, 1 in 6, 1 in 7, and 1 in 8, respectively, giving themselves at least 7 points. All four countries are long-standing

countries of labour immigration, but so are others, such as Luxemburg, Sweden, the Netherlands, Germany or the UK, where respondents were much less likely to rate themselves as racist as this. In more recent countries of immigration the highest score was 10% of respondents giving themselves at least 7 points. This was the case in Finland. In Italy the share was 9%, and in Greece, Spain, Ireland, and Portugal the share was between 3% and 6%. Given Eurobarometer sample sizes, and assuming best practice, any differences of more than one percentage point do in fact mark a difference between populations.

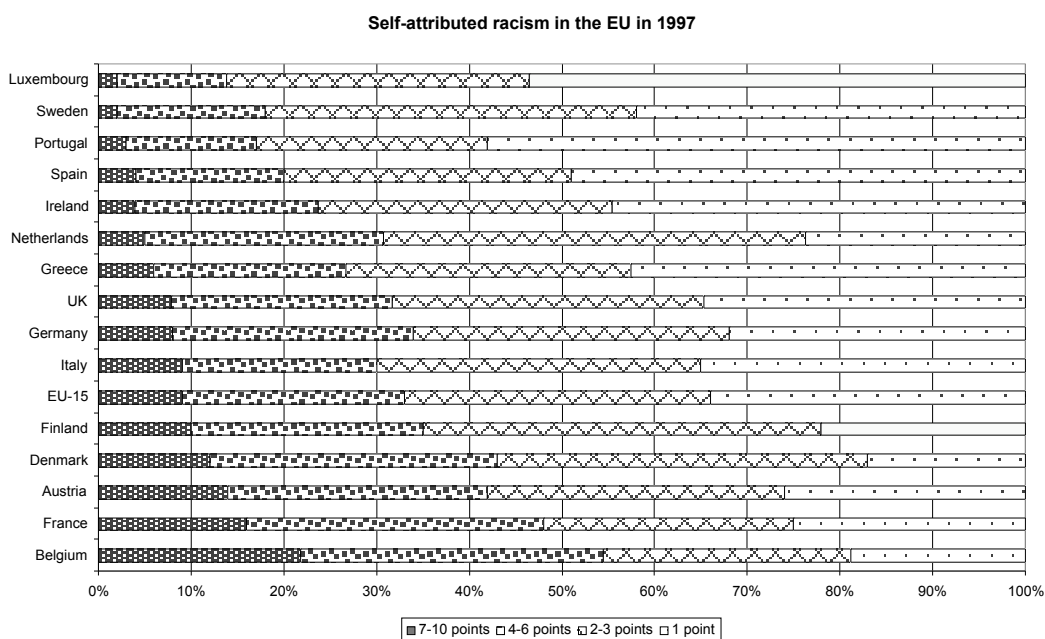
Table 4: Self-ratings on a scale of 1 to 10 ('not at all racist' to 'very racist') in the European Union, Spring 1997, percent

	1 point	2 and 3 points	4 to 6 points	7 to 10 points
Belgium	19	27	33	22
Denmark	17	40	31	12
Germany	32	34	26	8
Greece	43	31	21	6
Spain	49	31	16	4
France	25	27	32	16
Ireland	45	32	20	4
Italy	35	35	21	9
Luxemburg	54	33	12	2
Netherlands	24	46	26	5
Austria	26	32	28	14
Portugal	58	25	14	3
Finland	22	43	25	10
Sweden	42	40	16	2
UK	35	34	24	8
EU-15	34	33	24	9

Data source: Eurobarometer 47.1, 1997

http://europa.eu.int/comm/public_opinion/archives/special.htm

Figure 4:



There may be a connection to the confidence people have in the institutions. “Nearly half of those who declared themselves as quite or very racist – [i.e. gave themselves 4 points or more] – were dissatisfied with the political working of their country” (Eurobarometer 1997:2) but the direction of causation is unclear.

Eurobarometer 47.1 in 1997 and Eurobarometer 53 in 2000 included some identical questions. From these, attitude changes in the European Union between 1997 and 2000 can be derived:

- Support for policies designed to improve the coexistence of majorities and minorities has further increased.
- A majority of Europeans have voiced concern over minorities because they fear minorities are threatening social peace and welfare;
 - this percentage increased over the period 1997 to 2000.
 - People are worried about unemployment, a loss of social welfare and a drop in educational standards.
 - A small, but relevant minority of Europeans feels personally disturbed by the existence of minorities (SORA 2001a: 11).

At member country level, the 1997 to 2000 trend SORA reports is for attitudes to get more sceptical in seven or eight countries, to be unchanged in one, to differ on different items in two, and to be positive in three or four. They valued growing support for policies designed to improve social coexistence between majority and minority groups as a positive trend, and declining support as a negative trend, but one hesitates to chime in. Quite conceivably this is support for “taming” the immigrants or minority group rather than for making the majority more willing to coexist. Alternatively it could also be support for the idea to “tame” the other majority members rather than the respondent. In either of these cases the “contradiction” the authors see in the overall trend would in fact make sense. The respondent is more worried and therefore the wish has grown for others to be made more cooperative.

Some further empirical points from Eurobarometer 53:

- “Most Europeans are optimistic about multiculturalism. ... the number of those who view immigrants as enriching the cultural life of a country has increased (from 33% in 1997 to 48% in 2000). There is also a strong relationship between multicultural optimism and blaming minorities: If a person is afraid of social conflict and fears loss of economic status attributable to minorities, he/she more likely does not believe in enrichment of cultural life by those minorities.
- One European out of five supports the cultural assimilation of minorities; they argue that in order to become fully accepted members of society, people belonging to minority groups should abandon their own culture. There has been no change of opinion in this respect over the past three years.
- In 13 EU Member States the ‘actively tolerant’ people outnumber the ‘intolerant’. By far the largest groups in Europe, however, are the ‘passively tolerant’ and the ‘ambivalent’. One European out of four has been categorised as ‘ambivalent’ – meaning that they have both positive and negative attitudes towards minorities at the same time. This group should be considered the group that reacts most to political leadership” (SORA 2001a: 11).

By ‘ambivalent’ the SORA group meant respondents reacting positively to some of the suggestions about immigrants and minorities and negatively to others.

SORA identified attitudes towards minorities to be related to voting behaviour, education, family relations to persons of different 'race', religion, nationality or culture, as well as experience of unemployment. Higher education and family relations were associated with more positive attitudes towards minority groups, unemployment often with more negative attitudes. But "these factors failed to provide a sound explanation for the attitudes shown towards minorities in the countries of Southern Europe" (SORA 2001a: 11) while they worked well in the northern part of the EU. To use the word "explanation" in this context could be misleading for the lay-person. The regression analysis reveals co-occurrences between one variable and a set of other variables, but it does not actually explain. Explanation in an everyday sense of the word is always in the interpretation of the regression results, not in the regression results as such.

The education finding has been replicated many times. In the US, it was found, for instance, that the less-skilled are more opposed to immigration regardless of whether they live in places with greater or lesser concentrations of immigrants (Scheve/Slaughter 1999).

4.6 Geographic dimensions and trends

Research into discrimination against migrants and their descendants was done only in a few countries before about 1990. These were the U.S., South Africa, Australia, and the UK. Since then Canada and the Netherlands have joined, and in a number of other European countries first initiatives have been taken. The EUMC's RAXEN network is now established in all EU member countries and will be expanded to the new members. Outside of these select few countries there is very little formal research on discrimination against migrants, if any, although NGOs and sometimes trade unions may be keeping track of abuse and occasionally of other forms of discrimination. As international migration appears to be spreading, universities and other research organisations will have to make more of an effort to establish the topic in their curricula and with funding agencies. There is no reason to assume that discrimination or racist attitudes are less common among populations that have not yet been researched. Further, while EU data show large differences between countries in attitudes discrimination testing has shown only small differences in actual behaviour.

Whether discrimination of any form or the inclination to it is increasing or decreasing in extent or severity over the longer term is completely unknown. Short-term fluctuations, as indicated in the data presented in the next section, should not be over-interpreted. The trend in research volume has been to grow gradually.

5. International response

5.1 Legal instruments

One of the earliest international concerns about migration was the involuntary nature of a considerable part of 19th century migration. In 1885 an International Conference Against Trafficking in Women was held in Paris; a series of conventions were adopted in subsequent decades:

- The 1910 Convention for the Suppression of White Slave Traffic,
- The 1949 U.N. Convention for the Suppression of Traffic in Persons and of the Exploitation of the Prostitution of Others,
- The 1979 Convention on the Elimination of All Forms of Discrimination Against Women.

Further, there is also the United Nations General Assembly Resolution 49/166 of 23 December 1994 condemning “illicit and clandestine movement of persons across national borders ... with the end goal of forcing women and girl children into sexually or economically oppressive or exploitative situations for the profit of recruiters, traffickers and crime syndicates” (Abou Chabaké 2000:124).

The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) was adopted by the UN Assembly on 19 December 1965.

Late in 2002, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families entered into force when it was ratified by a 20th UN member. But as before, this UN Convention only entered into force for its signatories, and they are mainly sending countries rather than receiving countries.

United Nations Instruments pertaining to migration (UNPD 2003b):

- The 1951 Convention relating to the Status of Refugees, ratified by 141 countries, establishes legal protections and a clear definition of the status of refugees.
- The 1967 Protocol relating to the Status of Refugees, ratified by 139 countries, extends the scope of the 1951 Convention to persons who became refugees after that date.
- The 1990 International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families, came into effect last month, after the report was sent for printing, when Timor-Leste became the twentieth country to ratify it.
- The 2000 Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, has been ratified by 18 countries.
- The 2000 Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, has been ratified by 17 countries.

Pertinent ILO Conventions include,

- The Forced Labour Convention, 1930 (No. 29)
- The Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)
- The Fee-Charging Employment Agencies Convention (Revised), 1949 (No. 96)
- The Migration for Employment Convention (Revised), 1949 (No. 97)
- The Right to Organise and Collective Bargaining Convention, 1949 (No. 98)
- The Discrimination (Employment and Occupation) Convention, 1958 (No. 111)
- The Equality of Treatment (Social Security) Convention, 1962 (No. 118)
- The Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143)
- The Maintenance of Social Security Rights Convention, 1982 (No. 157).

There are also the accompanying Recommendations (see <http://www.ilo.org/ilolex/english/convdisp1.htm>).

“The ILO Discrimination (Employment and Occupation) Convention, 1958 (No. 111) defines discrimination as any ‘distinction, exclusion or preference ... which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation as may be determined’. In this Convention, the grounds for non-discrimination include race, colour, sex, religion, political opinion, national extraction or social origin. Convention No. 111 does not, however, prohibit discrimination on the grounds of nationality – the one characteristic that differentiates migrants from other members of society. It has been made clear by the ILO’s Committee of Experts on the Application of Conventions and Recommendations that the concept of national extraction in the 1958 instrument does not refer to those distinctions that may be made between the citizens of one country and those of another, but to distinctions between the citizens of the same country on the basis of a person’s place of birth, ancestry or foreign origin. Indeed, at a preliminary stage of the 1958 Convention, it was proposed to include nationality among the grounds for non-discrimination, but this was rejected, as were subsequent amendments to the same effect” (Zegers de Beijl 1999:10).

There is anti-discrimination legislation in a number of countries but its implementation poses a large problem. The EU Council Directive 2000/78/EC requires all member countries to adopt legislation for equal treatment in employment and occupation by 2 December 2003 but it seems quite unlikely that all countries will in fact comply. Bodies charged with facilitating equal opportunities and monitoring breaches of relevant legislation have also been established in a number of countries. Their efficiency and the comprehensiveness of their work depend to some degree on the quality of the staff and the sufficiency of the budget.

Among the currently 45 member countries of the Council of Europe the European Human Rights Convention provides a legal floor for all human beings regardless of their citizenship or legal status.

5.2 Training

Some scepticism has been expressed, not of the necessity to have legal instruments against discrimination, but of their efficiency by themselves: “Although national measures, such as anti-discrimination legislation, are necessary, they are not seen to be a sufficient means of combating ‘racial’ or ethnic discrimination in employment. The effect of such legislation is often that racism becomes more subtle, and that indirect, institutional or unintentional discrimination becomes important. Therefore, as well as laws against discrimination, there also exists a range of social policy initiatives against racism and discrimination at an organisational level, including equal opportunities programmes” (Wrench 2000:69f).

Since xenophobia, racism, nationalism, and the propensity to discriminate appear to vary partly by degree of education, training may be a feasible way forward. The awareness of discrimination is not as great as it should be. This goes for both ends of the interaction, the discriminating person and the discriminated one. Reporting on the three stages of the ILO programme “Combating discrimination against (im)migrant workers and ethnic minorities in the world of work”, John Wrench outlined how training could be directed at a variety of special target audiences (Wrench 2000:70):

- Gatekeepers, i.e. recruiters and selectors, such as, in the world of work, personnel and line managers, civil servants and officials in labour exchanges and other agencies with a placement role, and trade union full time officials and shop stewards. Outside work there is a myriad more gate-keeping positions.

- Migrants and ethnic minorities themselves might be given training in the language of the receiving country, or occupational skills training to allow access to jobs for which migrants have insufficient experience. Included here we could also find training in how to deal with self-experienced discrimination and the discrimination of others like oneself (such as a course on ‘Anti-Racism for Black Managers’ in the UK) (Wrench 2000:70, 81f).
- Training for service delivery, such as for social workers, teachers, staff involved in the allocation of housing, workers in the voluntary sector, and bank staff providing financial services, aimed at enhancing sensitivity or fairness in the delivery of services to ethnic minority clients (Wrench 2000:70).

Limiting ourselves to anti-discrimination training, there “exist many different types of training – often working from very different assumptions about the causes of and remedies for racism and discrimination – all of which can be directed towards gatekeepers in the labour market [or elsewhere], and all of which would claim to be tackling employment discrimination” (Wrench 2000:70).

Wrench and Taylor (1993) identified four training strategies:

- Straightforward information provision “with the underlying assumption that the problem to be tackled is largely one of ignorance, and that the provision of new information will itself produce changes in attitudes and behaviour” (Wrench 2000:72).
- A more active and direct approach to specific mechanisms to produce attitude change in the trainees (Wrench 2000:72).
- “Training to produce behavioural change in the trainees, perhaps with the assumption that attitude change will follow” (Wrench 2000:72).
- An emphasis on organisational rather than personal change, i.e. changes beyond the trainees attending the course (Wrench 2000:72).

On a second dimension they identified three kinds of content for training courses tied up with course aims (Wrench 2000:72):

- A multicultural emphasis would be focusing on the characteristics of migrants and ethnic minorities themselves.
- An emphasis on racism and discrimination would focus attention on the actions of the majority population and the structures of society.
- A contextual approach would place emphasis on the broader social context and issues, perhaps including a multicultural and anti-racist content but locating them in their wider context.

The four strategies and the three content emphases yield a four-by-three matrix developed by Wrench and Taylor (1993). Within it they were able to situate six training approaches, each one usually spanning two or three cells in the matrix (Wrench 2000:73f). John Wrench, through his work on the European Compendium of Good Practice (Wrench 1997; Wrench 2000:88f) later added a seventh type because he found it widely practiced in continental Europe, and then an eighth one, too:

1. Information Training (information provision with a multicultural or anti-discrimination emphasis).
2. Cultural Awareness Training (a multicultural emphasis with a strategy of information provision or of attitude change).

3. Intercultural Practice Training (a multicultural content intends behaviour change with reference to information provision and attitude change).
4. Racism Awareness Training (at core anti-discrimination training intending attitude change, often linked with some information provision and some multiculturalism).
5. Equalities Training (behaviour change intended through emphases on anti-discrimination contents and / or contextualising).
6. Anti-Racism Training (an anti-discrimination emphasis in content intending organisational change connected with all the other strategies, i.e. information provision, attitude change and behaviour change).

When a degree of equality has already been achieved:

7. Anti-discrimination for 'black' managers (anti-discrimination training meaning to strengthen the group's own ability to remove barriers to advancement).
8. Diversity Training (emphasises context intending organisational change but includes elements from everything else). Diversity Training presupposes a degree of equality rather than producing it. This has become one of the main points of critique, especially among British trade unions (Wrench 2000:91-96).

Leading to the seventh type, Wrench discovered there was an assumption behind this typology that reality had overtaken. "One of the main assumptions behind the typology had been that 'anti-discrimination training' was by definition training directed at the ... majority, those whose attitudes and practices lay behind the structures of exclusion. The corresponding assumption was that training directed at ethnic minorities themselves was likely to be in some way 'compensatory' ..." (Wrench 2000:82). A course like 'Anti-Discrimination for Black Managers', however, was directed at the minority group and was clearly anti-discrimination training meaning to strengthen the group's own ability to remove barriers to advancement. Such measures are not always feasible because "like purer forms of Diversity Training, it is a type which logically is only appropriate when some barriers have been broken down and people from previously excluded minorities have found their way into some of the higher levels of the organisation. This relatively new and innovative approach to anti-discrimination training produced a very positive response from those black managers who participated" (Wrench 2000:82; Taylor et al. 1997:62).

Indeed, that Diversity Training could be presupposing a degree of equality rather than producing it has become one of the main points of critique, especially among British trade unions (Wrench 2000:91-96).

Evidently, the eight training strategies directed at gatekeepers as listed above also represent an evolution of approaches over time.

5.3 Collections of good practice examples

A number of collections of good practice have been undertaken in Europe. One of the early ones was the initiative by the European Foundation for the Improvement of Living and Working Conditions when it assembled the European Compendium of Good Practice for the Prevention of Racism at the Workplace (Wrench 1997) covering the 15 member countries and Norway.

Good practice collections require maintenance, not least because what is considered good practice today may be evaluated critically tomorrow. Standards evolve, and we are all continuously searching for practice better than hitherto.

Further, good practice may differ from place to place since equal practices may be received differently given different historical experience.

Practice, in order to be sustainable in the medium and longer term, may also have to compromise between good practice and going practice. If the gap is too wide, regardless of whether it is good or bad practice, it may run the danger of being regarded as outrageous.

6. Conclusion

This report has laid particular emphasis on the methods of investigating the existence of discriminatory attitudes and practices. It has highlighted, in particular, the opportunities and pitfalls of diverse methodologies, and has illustrated them with examples mostly, though not exclusively, of a European provenance. Finally, a sketch of tried and tested training approaches in order to influence attitudes and practices was given, and some suggestions were made about other ways forward. Not all societies and governments are equally alert to the situation. In fact, countries are at very different stages of facing the fact of discrimination. This is true even in Europe, the continent with the most immigrants.

One major conclusion clearly is that some hard thinking about research methods is required in order to make the results more useful and more convincing. Two further conclusions would be that many research questions have remained unexplored and that much more research should be done. The latter would include the evaluation of training activities.

References

- Abou Chabaké, Tarek Armando (2000) Irreguläre Migration und Schleusertum: Im Wechselspiel von Legalität und Illegalität; in: Husa et al. (eds.) 2000:123-143
- Allasino, Enrico et al. (2004) Labour Market Discrimination against Migrant Workers in Italy; International Migration Papers; Geneva: ILO www.ilo.org/migrant
- Arriijn, Peter/ Feld, Serge/ Nayer, André (1998) Discrimination in Access to Employment on Grounds of Foreign Origin: the Case of Belgium; International Migration Papers No. 23; Geneva: ILO www.ilo.org/migrant
- Bendick, M. (1996) Discrimination Against Racial/Ethnic Minorities in Access to Employment in the United States: Empirical Findings from Situation Testing; International Migration Papers No. 12; Geneva: ILO www.ilo.org/migrant
- Bevelander, Pieter/ Nielsen, Helena Skyt (2001) Declining Employment Success of Immigrant Males in Sweden: Observed or Unobserved Characteristics?; Journal of Population Economics 14/3:455-471
- Bilsborrow, Richard E./ Hugo, Graeme/ Oberai, A.S./ Zlotnik, Hania (1997) International Migration Statistics: Guidelines for Improving Data Collection Systems; Geneva: ILO
- Borjas, George J./ Tienda, Marta (eds.) (1985) Hispanics in the U.S. Economy; Orlando: Academic Press
- Bovenkerk, Frank (1992) Testing Discrimination in Natural Experiments: A Manual for International Comparative Research on Discrimination on the Grounds of "Race" and Ethnic Origin; Geneva: ILO
- Bovenkerk, Frank (1999) The Research Methodology; in: Zegers de Beijl (ed.) 1999:13-40
- Bovenkerk, Frank/ Gras, M. J. I./ Ramsoedh, D. et al. (1995) Discrimination Against Migrant Workers and Ethnic Minorities in Access to Employment in the Netherlands; International Migration Papers No. 4; Geneva: ILO www.ilo.org/migrant
- Centre for Strategy and Evaluation Services (2003) Methods and Indicators to Measure the Cost-Effectiveness of Diversity Policies in Enterprises; Brussels: European Commission http://europa.eu.int/comm/employment_social/fundamental_rights/prog/studies_en.htm
- Christian, Bryan Paul (2000) Facilitating High-Skilled Migration to Advanced Industrial Countries: Comparative Policies; Washington DC: Georgetown University Institute for the Study of International Migration
- Colectivo IOE/ Pérez Molina, Rafaél (1996) Labour Market Discrimination Against Migrant Workers in Spain; International Migration Papers No. 9; Geneva: ILO www.ilo.org/migrant
- Commission of the European Communities (1988) Eurobarometer 30: Immigrants and Out-Groups in Western Europe, October-November, Brussels
- Commission of the European Communities (1993) Eurobarometer 39: Public Opinion in the European Community, June, Brussels
- Commission of the European Communities (1997) Eurobarometer 47.1: Racism and Xenophobia, Brussels
- Coulon, Augustin de (2001) Wage Differentials between Ethnic Groups in Switzerland; Labour 15/1:111-132
- EEIG (The European Opinion Research Group) (2001) Eurobarometer 54.2 – The Social Situation in the European Union; Brussels
- EEIG (The European Opinion Research Group) (2002) Eurobarometer 57.0 – Discrimination in Europe; Brussels http://europa.eu.int/comm/employment_social/fundamental_rights/prog/studies_en.htm
- Ekberg, Jan (1994) Economic Progress among Immigrants in Sweden; Scandinavian Journal of Social Welfare 3:148-157

- Ekberg, Jan (1996) Labour Market Careers among Young Finnish Immigrants in Sweden; *International Migration* 34/3:371-384
- Faundez, Julio (2004) Racism and Employment; in: OHCHR/ UNESCO (eds.) (2004) *Dimensions of Racism*; Paris: UNESCO
- Fibbi, Rosita/ Kaya, Bülent/ Piguet, Etienne (2003) *Le passeport ou le diplôme ? Etudes des discriminations à l'embauche des jeunes issus de la migration ; Rapport de recherche 31 / 2003 ; Neuchâtel : Forum suisse pour l'étude des migrations et de la population*
- Fix, Michael/ Struyk, Raymond J. (eds.) (1992) *Clear and Convincing Evidence: Measurement of Discrimination in America*; Washington DC: Urban Institute
- Friedberg, Rachel M. (2000) You Can't Take It With You? Immigrant Assimilation and the Portability of Human Capital; *Journal of Labor Economics* 18/2:221-251; originally 1996 as NBER Working Paper No. 5837; Cambridge/MA: NBER www.nber.org
- Gächter, August (1995) Forced Complementarity: The Attempt to Protect Native Austrian Workers From Immigrants; *New Community* 21/3:379-398
- Goldberg, Andreas/ Mourinho, Dora/ Kulke, Ursula (1995) Labour Market Discrimination Against Foreign Workers in Germany; *International Migration Papers* No. 7; Geneva: ILO www.ilo.org/migrant
- Granato, Nadia/ Kalter, Frank (2001) Die Persistenz ethnischer Ungleichheit am deutschen Arbeitsmarkt; *Kölner Zeitschrift für Soziologie und Sozialpsychologie* 53/3:497-520
- Hansen, Niels-Erik/ McClure, I. (1998) Protecting Migrants and Ethnic Minorities from Discrimination in Employment: The Danish Experience; *International Migration Papers* No. 25; Geneva: ILO www.ilo.org/migrant
- Heckman, James J. (1998) Detecting Discrimination; *Journal of Economic Perspectives* 12/2:101-116
- Hjarnø, Jan/ Jensen, Torben (1997) Diskrimineringen af unge med indvandrerbaggrund ved jobsøgning. Dansk national rapport efter oplæg fra ILO; *Papers, migration* No. 21; Esbjerg: Danish Centre for Migration and Ethnic Studies
- Husa, Karl/ Parnreiter, Christof/ Stacher, Irene (eds.) (2000) *Internationale Migration. Die globale Herausforderung des 21. Jahrhunderts?*; Frankfurt/M.: Brandes & Apsel
- ILO (1997) *Protecting the Most Vulnerable of Today's Workers*; Discussion Paper, Tripartite Meeting of Experts on Future ILO Activities in the Field of Migration; Geneva: ILO
- ILO (2000) *Improving Methods of Collecting Migration Statistics in Central and Eastern Europe: Report of the Regional Training Seminar on Migration Statistics, Warsaw, Poland, 30 June – 2 July 1999*; Geneva: ILO
- ILO (2002) *Transformation And Migration In Central and Eastern Europe: A Final Project Report*; Geneva: ILO
- Kalter, Frank/ Granato, Nadia (2001) Recent Trends of Assimilation in Germany; *ZUMA-Arbeitsberichte* 2001/02 http://www.social-science-geis.de/Publikationen/Berichte/ZUMA_Arbeitsberichte/01/01_02abs.htm
- Kee, Peter (1995) Native-Immigrant Wage Differentials in the Netherlands: Discrimination?; *Oxford Economic Papers* 47:302-317
- Lowell, B. Lindsay/ Findlay, Allan M. (2002) Migration of Highly Skilled Persons from Developing Countries: Impact and Policy Responses, Synthesis Report", *International Migration Papers* No. 44, Geneva: ILO
- Macpherson, William (1999) *Report on the Inquiry into the Stephen Lawrence Murder*; London: Home Office

- Marsh, Alan/ Sahin-Dikmen, Melahat (2002) Discrimination in Europe (Report B) Eurobarometer 57.0; London: Policy Studies Institute
http://europa.eu.int/comm/employment_social/fundamental_rights/prog/studies_en.htm
- Neidert, Lisa J./ Farley, Reynolds (1985) Assimilation in the United States: An Analysis of Ethnic and Generation Differences in Status and Achievement; *American Sociological Review* 50/6:840-850
- Penninx, Rinus / Roosblad, Judith (2000) Introduction; in: Penninx/Roosblad (eds.) 2000:1-20
- Penninx, Rinus / Roosblad, Judith (eds.) (2000) Trade Unions, Immigration, and Immigrants in Europe, 1960-1993: A Comparative Study of the Attitudes and Actions of Trade Unions in Seven West European Countries; New York & Oxford: Berghahn Books
- Reimers, Cordelia W. (1983) Labor Market Discrimination against Hispanic and Black Men; *Review of Economics and Statistics* 65:570-579
- Reimers, Cordelia W. (1985) A Comparative Analysis of the Wages of Hispanics, Blacks and Non-Hispanic Whites; in: Borjas/Tienda (eds.) 1985:127-175
- Riach, P. A. / Rich, Judith (2002) Field Experiments of Discrimination in the Market Place; *Economic Journal* 112:F480-F518
- Scheve, Kenneth F./ Slaughter, Matthew J. (2001) Labor-Market Competition and Individual Preferences Over Immigration Policy; *Review of Economics and Statistics* 83/1:133-145; originally 1999 as NBER Working Paper No. 6946 www.nber.org
- SORA (Thalhammer, Eva/ Zucha, Vlasta/ Enzenhofer, Edith/ Salfinger, Brigitte/ Ogris, Günther) (2001a) Attitudes Towards Minority Groups in the European Union: A Special Analysis of the Eurobarometer 2000 Survey on Behalf of the European Monitoring Centre on Racism and Xenophobia; Vienna: SORA http://europa.eu.int/comm/public_opinion/archives/special.htm
- SORA (Thalhammer, Eva/ Zucha, Vlasta/ Enzenhofer, Edith/ Salfinger, Brigitte/ Ogris, Günther) (2001b) Attitudes Towards Minority Groups in the European Union: A Special Analysis of the Eurobarometer 2000 Survey on Behalf of the European Monitoring Centre on Racism and Xenophobia – Technical Report; Vienna: SORA http://europa.eu.int/comm/public_opinion/archives/special.htm
- Stalker, Peter (1994) *The Work of Strangers: A Survey of International Labour Migration*; Geneva: ILO
- Stark, Oded (1991) *The Migration of Labor*; Oxford: Basil Blackwell
- Taran, Patrick/ Gächter, August (2003) *Achieving Equality in Intercultural Workplaces*; Dublin: Equality Authority www.equality.ie
- Taran, Patrick A. / Geronimi, Eduardo (2002) *Globalization, Labour and Migration: Protection is Paramount*; *Perspectives on Labour Migration* 3E; Geneva: ILO www.ilo.org/migrant
- Taran, Patrick A. / Moreno-Fontes Chammartin, Gloria (2002) *Getting at the Roots: Stopping Exploitation of Migrant Workers by Organized Crime*; *Perspectives on Labour Migration* 1E; Geneva: ILO www.ilo.org/migrant
- Taylor, Paul/ Powell, Diana/ Wrench, John (1997) *The Evaluation of Anti-Discrimination Training Activities in the United Kingdom*; *International Migration Papers* No. 21; Geneva: ILO www.ilo.org/migrant
- Trejo, Stephen J. (1997) *Why Do Mexican Americans Earn Low Wages?* *Journal of Political Economy* 105/6:1235-1268
- United Nations Population Division (2003a) *International Migration Report 2002*; New York: UN
- United Nations Population Division (2003b) *International Migration: A Global Issue for the Twenty-First Century*; *New Report Now Available*; Press Release; New York: UN
- Virtanen, Timo (2001) *The European Statistical Atlas On Racial Violence 1995-2000 – Draft*; manuscript prepared for the EUMC

Waldrauch, Harald (2001) Die Integration von Einwanderern. Ein Index der rechtlichen Diskriminierung; Frankfurt: Campus

Wodak, Ruth/ Dijk, Teun A. van (eds.) (2000) Racism at the Top: Parliamentary Discourses on Ethnic Issues in Six European States; Klagenfurt/Celovec: Drava Verlag

Wrench, John (1996) Preventing Racism at the Workplace: A Report on 16 European Countries; Dublin: European Foundation for the Improvement of Living and Working Conditions

Wrench, John (1997) European Compendium of Good Practice for the Prevention of Racism at the Workplace; Dublin: European Foundation for the Improvement of Living and Working Conditions

Wrench, John (1999) The Problem of 'No Problem': Discrimination in the European Labour Market; Isotopia 15:27-34

Wrench, John (2000) Anti-Discrimination Training and the Road to Diversity Management in Europe; Isotopia 24:68-99

Wrench, John (2002) Diversity Management, Discrimination and Ethnic Minorities in Europe: Clarifications, Critiques and Research Agendas; ThemES No. 19, Mangfåldens Praktik, Norrköping: Centre for Ethnic and Urban Studies

Wrench, John/ Modood, Tariq (2001) The Effectiveness of Employment Equality Policies in Relation to Immigrants and Ethnic Minorities in the UK; International Migration Paper No. 38; Geneva: ILO

Wrench, John/ Taylor, Paul (1993) A Research Manual on the Evaluation of Anti-Discrimination Training Activities; Geneva: ILO

Zegers de Beijl, Roger (1999) Introduction; in: Zegers de Beijl (ed.) 1999:1-11

Zegers de Beijl, Roger (ed.) (1999) Documenting Discrimination Against Migrant Workers in the Labour Market: A Comparative Analysis of Four European Countries; Geneva: ILO

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