



Module « Emploi, travail salarié et protection sociale »

L'accès à l'emploi et aux indemnités en cas de perte du travail joue un rôle capital dans la définition de l'appartenance sociale (ou de la non-appartenance). Les effets des normes et des mesures publiques relatives à l'emploi, les réglementations en matière d'assurances sociales sont étudiés dans ce module en rapport avec l'intégration ou l'exclusion. On y analyse en outre dans quelle mesure le travail indépendant peut constituer une alternative satisfaisante pour les personnes concernées sur le plan social et personnel. Sont également abordées les formes d'action que les personnes régulièrement au chômage choisissent pour faire face aux processus de marginalisation sociale.

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Les entreprises sociales d'insertion par l'économie en Suisse: analyse des effets de leurs pratiques sur les bénéficiaires et sur les politiques sociales

Claude de Jonckheere

Résumé des principaux résultats (extrait du rapport final)

Parmi les structures existantes en Suisse qui visent à lutter contre l'exclusion des personnes dépourvues de travail, cette recherche s'intéresse aux entreprises sociales d'insertion par l'économie. Leur originalité tient au fait de relier une (re)mise en situation de travail de personnes qui éprouvent des difficultés importantes sur le marché de l'emploi à une production de biens et de services souvent sur un marché concurrentiel. L'objectif d'insertion ou de réinsertion poursuivi par ces entreprises sociales est principalement soutenu par une activité productive mais aussi par un accompagnement personnalisé des personnes fragilisées, et peut viser une insertion à durée limitée ou à durée indéterminée. On trouve en effet en Suisse d'une part des entreprises sociales à finalité d'emploi temporaire qui, en voulant servir de "ponts" vers le marché du travail, accueillent des personnes pour une période de temps limité et, d'autre part, des entreprises sociales à finalité d'emploi protégé dont le but est davantage d'occuper des personnes dont le retour sur le marché de l'emploi est plus difficilement envisageable, comme les personnes handicapées. Suivant le profil des personnes qu'elles reçoivent, la capacité entrepreneuriale de leurs acteurs et les potentialités économiques de la région, les entreprises sociales d'insertion peuvent développer des activités variées bien que la majorité d'entre elles se concentrent généralement dans les secteurs suivants: rénovation et construction de bâtiments, entretien d'espaces publics et de zones vertes, tri et recyclage, conditionnement et emballage de produits, fabrication de pièces et outils destinés à l'industrie.

Malgré l'identification d'un certain nombre de caractéristiques permettant de définir les entreprises sociales d'insertion, il n'existe toujours pas en Suisse, contrairement à d'autres pays européens, de définition institutionnelle de l'insertion par l'activité économique. Les structures entrant dans ce champ "s'auto-labélisent" et rendent de ce fait aussi plus difficile tout essai de classification.

Ce type de structures n'ayant été que très peu étudié en Suisse, notre recherche vise deux objectifs en particulier. Le premier objectif consiste à vérifier si les entreprises sociales d'insertion favorisent ou non l'insertion socioprofessionnelle des personnes qu'elles accueillent, par le maintien ou le développement de leurs "compétences", ou si, au contraire, elles ne développent pas des effets "pervers", comme la chronicisation des processus de désaffiliation. Le deuxième objectif consiste à comprendre en quoi les logiques sociales à l'œuvre dans les mécanismes producteurs d'exclusion influencent les logiques individuelles. En d'autres termes, nous cherchons à appréhender de quelle manière les discours en matière d'insertion et d'exclusion peuvent influencer les pratiques des entreprises sociales et s'ils sont susceptibles également d'affecter la manière dont les bénéficiaires se définissent. Inversement, nous cherchons à saisir si les conceptions et les pratiques d'insertion des entreprises sociales renouvellent ou non les politiques de l'insertion et si elles préfigurent une nouvelle forme de travail social.

Pour satisfaire ces objectifs, nous avons fondé notre analyse sur six entreprises sociales en Suisse romande: deux dans le canton de Genève (Pro et L'Orangerie) et les autres dans les cantons de Vaud (Polyval), du Jura (Caritas), de Neuchâtel (La Joliette) et du Valais (La Thune). Parmi ces entreprises sociales, deux sont à finalité d'emploi protégé (Pro et Polyval) et accueillent

exclusivement des personnes au bénéfice de l'assurance invalidité alors que les autres sont à finalité d'emploi temporaire et reçoivent à ce titre entre autres des personnes au chômage, des personnes en fin de droit et des personnes participant à des programmes prévus par les lois d'aide sociales cantonales, même si elles peuvent aussi encadrer un certain nombre de personnes handicapées. Ces six entreprises sociales sont de grandeur très variable puisque certaines comptent au total, à savoir bénéficiaires et encadrants inclus, moins de 50 personnes comme à la Joliette, à L'Orangerie et à la Thune, entre 100 et 200 personnes comme à Caritas et à Pro, ou plus de 400 personnes comme à Polyval. L'analyse de ces différentes structures se fonde sur un certain nombre de données qui proviennent non seulement des textes législatifs fédéraux et cantonaux sur la base desquelles elles développent leurs activités mais aussi des textes qu'elles produisent; en outre, vingt entretiens ont été menés avec les responsables et certains des encadrants de ces entreprises sociales ainsi que trente-quatre "récits de vie" ont été recueillis auprès de personnes bénéficiant de leurs prestations. En utilisant la méthodologie des "récits de vie", cette recherche vise à se concentrer tout particulièrement sur le point de vue des acteurs. Les récits de vie des bénéficiaires font état de ce que les personnes relatent de leur existence ou de leur expérience. Ces récits sont centrés sur notre objet, à savoir l'exclusion du monde du travail et les possibilités d'insertion. L'identification des discours que les personnes tiennent sur elles-mêmes (identité, valeurs, aspirations), sur les normes sociales et institutionnelles, sur leurs attentes à l'égard d'autrui ainsi que sur leurs projets professionnels et personnels nous permet de saisir, d'un côté, l'influence du monde social et des logiques sociales à l'œuvre dans la production de ces discours et, d'un autre côté, leur part de créativité pour contrer les forces sociales qui tendent à leur capture.

L'analyse des données empiriques a tout d'abord révélé que les entreprises sociales d'insertion, tout en appartenant aussi bien au champ de l'économique par les exigences de productivité qu'au champ social par les pratiques d'accompagnement des personnes accueillies, ont tendance à mettre davantage l'accent sur des spécificités relevant d'un champ plutôt que de l'autre. Suivant leur mode de financement, leurs pratiques et leurs objectifs, nous avons dès lors pu inscrire les six entreprises sociales retenues dans le cadre de notre étude sur un continuum allant d'un pôle "managérial" à un pôle "humaniste". Et nous avons remarqué que les structures davantage orientées vers le champ de l'humain, du travail social, ont un discours beaucoup plus stigmatisant sur les bénéficiaires que les entreprises sociales davantage orientées sur l'économique; dans les premières, ils sont avant tout considérés sous l'angle de leurs "problèmes", de leurs fragilités et de leurs manques, alors que dans les secondes ils sont principalement considérés comme des travailleurs doués de compétences et potentiellement attractifs professionnellement. Cependant, malgré cette différence de "traitement", il ressort de notre analyse que les bénéficiaires semblent affectés de la même manière durant leur séjour dans une entreprise sociale.

Nous avons ensuite surtout constaté que l'objectif principal des entreprises sociales qui réside dans l'insertion ou la réinsertion professionnelle des bénéficiaires par le maintien ou le développement de leurs compétences n'est pas réalisé. Les encadrants travaillent essentiellement sur leurs compétences sociales, personnelles et para-professionnelles (retrouver un rythme, se soumettre à des obligations, se confronter aux exigences d'un travail productif, etc.) car, selon eux, celles-ci sont sensées servir de support au développement de leurs compétences professionnelles. Or, selon les propos tenus tant par les encadrants que les bénéficiaires, les compétences sociales, personnelles et para-professionnelles acquises ou développées au sein de l'entreprise sociale ne semblent pas être transférables dans des organisations régies par les règles habituelles du travail. En fait, compte tenu du paysage actuel de l'économie et de la "crise" du marché du travail, notre recherche soulève la problématique des encadrants qui ne peuvent simplement pas œuvrer à la réalisation des objectifs d'insertion fixés par la loi. Alors que le travail est donné comme une finalité à atteindre, les encadrants lui revêtent une autre fonction: ils l'investissent comme un moyen d'accompagnement pour éviter ou limiter la désaffiliation des personnes accueillies. Ainsi, tout en faisant partie d'un ensemble de dispositifs d'insertion qui tendent à favoriser un processus d'exclusion des personnes en les mettant pour une plus ou moins longue durée hors de l'axe travail-non travail, les entreprises sociales contribuent simultanément à la sau-

vegarde du lien social. En se servant de l'activité productrice pour développer les compétences sociales, personnelles et para-professionnelles des bénéficiaires et pour susciter chez eux un travail réflexif sur leurs expériences et leur vie en générale, elles leur offrent la possibilité de développer des rapports positifs à eux-mêmes et ceci notamment grâce au sentiment d'utilité et de reconnaissance sociale qu'ils retirent de cette activité. En effet, dans la mesure où les individus ont instauré un rapport à eux-mêmes dans lequel le travail est essentiel et représente ce qu'est une vie dotée de sens et digne d'être vécue, les entreprises sociales - tout en n'étant pas reconnues par les interlocuteurs comme des entreprises ordinaires et, par là, les bénéficiaires comme des personnes travailleuses -, sont en quelque sorte le dernier filet où ils peuvent encore trouver une reconnaissance sociale à laquelle ils n'ont plus forcément accès de par leur exclusion du marché du travail.

Duration 01.11.2003-30.04.2006

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Mécanismes d'intégration et d'exclusion par le travail dans un environnement économique et social en mutation

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Résumé des principaux résultats (extrait du rapport final)

Le travail reste à ce jour un élément fondamental de l'intégration sociale des individus. En tant que "lien organique", il offre bien plus qu'un salaire pour vivre: un statut et une légitimité sociale. A ce titre, son absence involontaire est depuis longtemps reconnue comme l'un des principaux risques d'exclusion sociale, contribuant à l'appauvrissement tant monétaire que social des individus. De là à déduire que le fait d'avoir un emploi protège à lui seul de l'exclusion sociale, il n'y a qu'un pas, souvent franchi, en particulier dans les politiques d'insertion socio-professionnelle. Pourtant, le développement de formes d'emploi atypiques, souvent marquées par la précarité, ou de la pauvreté laborieuse (*working poor*) révèlent que les choses ne sont pas forcément aussi simples que cela. De fait, dans un contexte de mutations profondes du travail marquées non seulement par le développement d'une précarité de l'emploi (travail temporaire, licenciements, etc.) mais aussi par une précarité du travail (dégradation des conditions de travail dont participent une intensification du travail et une pression à l'extrême flexibilité et adaptabilité des travailleurs et travailleuses), certaines formes d'intégration professionnelle marquée par l'une et/ou l'autre de ces précarités apparaissent désormais contenir, elles aussi, un risque d'exclusion sociale.

Les analyses statistiques menées dans cette recherche confirment globalement ces tendances. La précarité professionnelle est ainsi très directement liée à différents indicateurs de pauvreté et de précarité financière (endettement, retards de paiement, déprivation en biens de consommation durable, bas revenus, etc.), de même qu'à des conditions moins favorables de logement (logement de moindre qualité, moins d'une pièce par personne, etc.). Dans un autre registre, cette précarité professionnelle va de pair avec une moindre participation sociale, tant en ce qui concerne le rapport aux institutions (confiance dans les institutions, participation politique) que les relations interpersonnelles (activités en public, contacts sociaux, soutien de la part des proches). Elle déploie également des effets négatifs sur la santé des individus concernés (état de santé auto-estimé, nombre de jours durant lesquels la personne est gênée dans ses activités habituelles du fait d'un problème de santé, divers problèmes également connus comme des symptômes de stress au travail tels que les problèmes de sommeil, les maux de dos ou de tête, etc.).

Dans tous les cas, la précarité du travail semble jouer, en Suisse, un rôle plus négatif que la précarité de l'emploi. Ainsi, les personnes faisant état d'une insatisfaction dans leur travail (indicateur utilisé pour mesurer la précarité du travail) ressortent comme les plus exposées aux risques d'exclusion sociale tels qu'étudiés dans cette recherche, qu'elles connaissent ou non en parallèle une insécurité de leur emploi. Les personnes qui ne connaissent "que" la précarité de l'emploi apparaissent moins exposées, mais se trouvent malgré tout régulièrement dans des situations moins favorables que celles qui ne connaissent aucune forme de précarité professionnelle.

Ces constats se retrouvent globalement quand on considère l'évolution des situations individuelles: la précarité professionnelle, lorsqu'elle perdure, augmente le risque d'une détérioration de la situation économique, des relations interpersonnelles et de divers aspects de la santé. Ceci se confirme même en tenant compte de l'influence de facteurs connus d'inégalités sociales (âge, formation, ou profession exercée) ou des effets croisés de divers aspects de l'intégration sociale (p.ex. effet de la pauvreté sur la santé). On peut donc affirmer que la précarité professionnelle est

bel et bien un élément moteur dans les processus qui mènent à l'exclusion sociale, même si bien sûr elle n'est pas seule en cause.

Cette recherche vise aussi à éclairer particulièrement les différences entre les sexes sur ce sujet. Celles-ci révèlent la complexité des phénomènes étudiés. Le lien entre précarité professionnelle et exclusion sociale se retrouve tant parmi les femmes que parmi les hommes mais n'est pas configuré de la même manière. En effet, les aspects de l'intégration sociale affectés par la précarité professionnelle ne sont pas toujours les mêmes pour les femmes et pour les hommes, ou ne sont pas affectés avec la même ampleur (le risque de paupérisation est par exemple plus fort pour les hommes que pour les femmes et touche davantage d'aspects de leur intégration économique).

Les inégalités sociales en lien avec l'exercice d'une activité rémunérée ne sont pas nouvelles. Elles ont pourtant largement disparu du débat public, notamment parce que la Suisse a adopté un mode de régulation du marché du travail qui limite fortement l'intervention de l'Etat au profit de la concertation entre les partenaires sociaux. Ceci contribue à renvoyer les discussions autour des conditions de travail et d'emploi dans les salles de négociation entre patronat et syndicats. Il y a pourtant un intérêt manifeste, dans le contexte actuel, à réintégrer ce débat dans un cercle plus large et à remettre la question des liens entre précarité professionnelle et précarité sociale au centre des préoccupations de l'action publique. En effet, cette étude, confirmant pour la Suisse des éléments déjà mis en évidence à l'étranger, démontre que la précarité professionnelle fait courir un risque social aussi humainement inacceptable que coûteux pour la collectivité. Tout d'abord, celle-ci se substitue de plus en plus aux entreprises pour assurer un minimum vital aux personnes dont les salaires sont insuffisants pour faire vivre leur ménage. Ensuite, elle assume des coûts de santé en augmentation croissante dont une partie est à mettre en lien avec les conséquences négatives de la précarité professionnelle sur la santé. Enfin, l'impact de la précarité professionnelle sur le bien-être psychique pose nécessairement la question du rôle que cette précarité peut jouer dans la hausse des cas d'invalidité pour causes psychiques. Cette hausse, qui mine depuis dix ans la santé financière de cette assurance sociale, serait alors bien davantage le fait de la précarité professionnelle que du chômage comme l'hypothèse en a souvent été émise mais jamais confirmée (même si les deux phénomènes se nourrissent l'un l'autre).

En fin de compte, cette recherche révèle les conséquences individuelles de la précarité professionnelle et met indirectement le doigt sur ses implications économiques et sociales au plan collectif. Elle indique ainsi l'importance d'une prise de conscience politique et par l'ensemble des acteurs concernés du fait que les mutations économiques récentes ne posent pas seulement la question de l'intégration des "surnuméraires" du marché de l'emploi, mais remettent également en cause la capacité du travail à intégrer sans exclure.

Duration 01.05.2003-31.10.2005

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New forms of division of labour in Swiss society? A sociological study on the relation between social identity and changes in the world of labour

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Summary of the main results (extract from the final report)

In Switzerland in the 1990s the world of work changes. Due to continuous unemployment and the flexibilization of jobs, on the labour market there develop new societal division lines between those being professionally successful and those being threatened by exclusion from the labour market. Against the background of this deep change there is the question about the effects of this development on the identity of those waged workers who now are precariously employed and without security. It was the goal of the here presented study to reconstruct the coping strategies of precariously employed people. The results are empirically based on 64 non-standardized interviews with precariously employed people, selected from a sample of altogether 92 interviews.

The 64 interviewed people started their precarious jobs only because by way of this they hope to be able to improve their situation on the labour market on the long run. This is also true for those precariously employed being additionally supported by National Insurance benefits or income support by social welfare, as well as for young people newly joining the labour market. Due to underemployment, many women do not succeed with independently financing their living. It is an interesting fact that young women frequently make the claim to be able to secure their living by way of waged work and gainful employment. None of them can assume that their future partner will be able to sufficiently and continuously financing a family and thus them.

Stabile integration into the labour market is the objective of all the precariously employed people we interviewed. They place their hopes on a better future. However, it is typical for precarious employment that due to being economically dependent those concerned do not have any possibilities to change their situation. For them, receiving income support is no alternative to waged labour: it is described as being degrading and restricting their autonomy to act. This estimation is the reason why precariously employed people try everything to stay on the labour market. Also those being subsidiarily or temporarily dependent on income support or unemployment benefit try hard to achieve stabile integration into the labour market, not at last in order of this way becoming independent of social security systems and those authorities as administering them. Very few of those interviewed give illicit work or criminality as long-term, alternative sources of income if they should not be able to secure a living by way of gainful employment on the long run. Those argumentation patterns referring to their current situation allow for conclusions on the values of the precariously employed people we interviewed. It becomes obvious how they are trying to cope in everyday life with the discrepancy between subjective wishes and objective living conditions. The types of solution strategies we were able to reconstruct can be divided into two groups: the first group, under pressure of the flexibility demands they are confronted with, tries to influence on the conditions of their employment. This happens, for example, by often changing their jobs or by establishing strong ties to individuals having a higher position in the hierarchy and by trying to influence on the latter's staff decisions. Doing so, while trying to meet demands at any rate, often health hazards are accepted which should not be underestimated. To this category there also belong those employees who change from fixed employment to becoming free lancers and offer their competences and skills under terms which are more favourable than usual on the labour market. Due to the ever extending discrepancy between their ideas and their actual situation, the second group of precariously employed people gradually retreat from public and social

life and in this context strongly remember moral values. This is true, for example, for those employees stating their dissatisfaction by demanding the right to regular gainful employment in the context of safe employment, and this although in the modern capitalist economic and social system formally there has never been such a thing. Thus they refer to the informal pact which promises participation in wealth to those waged workers adjusting to the demands of working life. This promise was a part of the social market economy which developed during the post-war period. That the validity of this pact is questioned these days becomes obvious not at least by the precarious employment situation of the demanding group. Thus the range of their solution strategies reaches from resignation as far as to open rebellion. The latter is true for youths and young adults of this group, although they hardly demand participation by way of gainful employment. Due to their failure on the labour market, their expectations are rather orientated towards social security systems. And: they retreat to social inner spaces. Due to not making the step towards independent life, this way the moratorium which is typical for youth is extended. Altogether, due to violated ideas of justice this second group is in most cases hardly motivated to achieve performance in working life. Many of them have for long innerly revoked their former loyalty to the company.

Apart from excessive health burdens, further negative effects can be summarized as typical risks of exclusion from the labour market: doing a job which does not refer anymore to former qualifications and is rather professionally disqualifying, after all, the loss of social contacts due to focusing on working life and job as well as strong ties to hierarchically higher people who are nevertheless exchangeable. Specifically with young people there are the additional negative effects of being professionally demotivated because there is no access to the desired field of profession, lack of formal qualification certificates, as well as the continuation of being dependent on income support as a result of retreating to social inner spaces.

To reduce these typical risks of exclusion, which are here reconstructed by individual cases, a more flexible organization of access to and transition between labour market and vocational training would be reasonable, this not at least given the fast changing demands of the labour market. Existing employment-political tools prove to be too much orientated at immediately combatting unemployment. Due to their short duration, further vocational training funded by social security systems such as unemployment insurance in most cases does not result in officially accepted qualifications. First or second vocational training of a kind which is actually useful for the labour market should be open also to those people not having the necessary private resources. Particularly the latter depend on such possibilities of (further) vocational training.

In respect of health burden coming along with precarious employment there is the question about the assertiveness of regulations of industrial law for the protection of health. Thus, employees do not use those possibilities to act as offered to them by the law, due to fear of losing their jobs. Given this, it would be reasonable to assess the competences of Canton labour inspections which are in charge of keeping these legal yet insufficiently implemented norms. Given the precarization of gainful employment, this is recommended not at least by the International Labour Organization (ILO). Also, further research might give information about these problems.

As a conclusion, there must be considering if, due to the demanded flexibility and mobility of workers, social security should be partly separated from being gainfully employed and most of all from home municipality and be based exclusively on universal legal rights. Instead of the locally rooted principle of social security there would be a basic security for the case of losing gainful employment, for example during periods of further vocational training. Only by way of such a basic security a constructive way of dealing with employment-biographical insecurity would become possible.

Translated into English by Mirko Wittwar, 2007

Duration 01.09.2003-31.10.2006

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The enforcement of the entrepreneurial self: The work of exclusion and integration in social-welfare and economy

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Summary of the main results (extract from the final report)

In market economies access to gainful employment is the pivotal precondition for economic and social integration. Therefore, our study focuses the social organization of integration into and exclusion from the labor market. In line with a process-oriented theoretical model of exclusion as starting "in the centre" of society we compared organizations of the economic and the welfare system. Empirically our project is a multi-sited ethnography consisting of case studies in three businesses (multinational company, retail group, bank) and three work integration programs for the unemployed (workshop for unskilled people, training firm for office workers, youth program). The ethnographic research pertaining to organizational practices is embedded in a discourse analytic framework. Namely, it relates to governmentality studies and the debate on the "new spirit of capitalism" positing the emergence of a normative model termed "the entrepreneurial self". This entrepreneurial self rationalizes his or her life according to market imperatives in order to ensure his or her "employability". Our study addresses the missing link between such discourse analytic diagnoses and the level of practice and sheds light on the practical accomplishment of exclusion by analyzing it as a form of work.

In the economic field we explored the techniques of handling so-called "low performers". Performance is a key concept in respect to employability. Although the three companies studied differ in their interpretations of performance, they share a few basic assumptions. Performance is regarded as an objective and measurable fact combining effort and output with behavior. Actually the evaluation of someone's performance is the result of institutionalized negotiations between employees and supervisors. Because performance rarely ever is an unequivocal fact the employee appraisal is an important occasion for selling one's achievements. Hence interactive skills in self-marketing become an additional demand crucial for one's status in the world of work. A negative performance evaluation does not automatically lead to (quick) dismissal. HR- and line managers, social workers, medical services etc. use a variety of cooling-out techniques, which fall into three categories. Changing the person (e.g. training, coaching, disciplinary action) aims at improving an employee's capacity or willingness to perform adequately. Changing the context (e.g. transfer to another job, team building) aims at a better alignment of an individual and his/her social environment. Changing the status (e.g. degradation, early retirement, dismissal) denotes different ways of partial or complete exclusion. Thus, integration and exclusion cannot be reduced to the opposition of dismissal versus keeping an employee in the company. While individual lay-offs for performance reasons only seem to be rare, the reference to performance serves to legitimize and individualize structural changes such as reduction of jobs or heightened qualification levels and the concomitant loss of unskilled jobs.

Work integration programs operate within the framework of unemployment laws and insurance. The Swiss unemployment policies follow the principle of activation, which in turn is based on the cultural model of the context-free competent economic actor with the sole problem of being out of work. In reality unemployment is often accompanied by a host of personal and social problems and a lack of resources. Hence integration programs are caught in a dilemma between the competitive logic of the market and the care logic of social support. They offer a simulation of the labor market instead of "real" work experience; thus, participation does not attest to participants' employability. Moreover, the programs do not offer vocational training, but restrict themselves to teaching self-marketing techniques for the job search. In this way the model of the entrepre-

neurial self is also applied to the unemployed. This may be adequate for those with a sound basis of professional credentials, but falls short of the needs of socially vulnerable groups without the necessary cultural and social capital. Because of the model of the competent economic actor integration programs must not offer social work or other forms of social support. Yet, this denial of social problems obstructs the integration work of the programs and may in some cases actually accelerate trajectories of exclusion. Again, modeling unemployed people as entrepreneurial economic actors individualizes structural problems of the labor market and stigmatizes those, who cannot find a job as "not employable". Still, integration programs do have some positive effects. They offer a time structure, contacts with other people sharing the problem of unemployment, some social recognition and professional assistance with the job search.

If activating unemployment policies are to benefit their addressees they need adjustments. First, the needs and concerns of the unemployed must be taken seriously. Integration programs have to adopt a realistic perspective of their clients' situation of living. Therefore they should acknowledge the logic of care, implied in setting up programs to help people on their way back into the labor market. This means integration measures must include the treatment of personal and social problems, if need be. Second, the people subject to activation must have a say in defining the goals, priorities and forms of integration measures. This implies that participation in such programs must be voluntary. Active cooperation of clients is the cornerstone of any successful intervention and it can only be obtained, if people are effectively involved in the decisions concerning their lives. Finally, activation measures must include investments in the human capital of the unemployed, which means such programs should enable the acquisition of marketable vocational skills.

Duration 01.10.2003-30.04.2006

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Typical and atypical employment: The impact of labour law on integration and exclusion

Michael Nollert, Peter Böhringer

Summary of the main results (extract from the final report)

In recent years, what is called atypical employment (or non-standard employment) deviating from traditional working conditions has spread also in Switzerland. Atypical forms of employment are often linked to legal uncertainties and economic instability. The present research project examines whether Swiss employment law adequately protects employees working in the following areas of atypical employment: on-call work; temporary work; international employment; telework; new or "pseudo" self-employment (contracting misclassified as independent); and illegal work (without a work permit). Further, it investigates the extent to which labour law supports the social integration of these groups; analyses the strategies adopted by atypical employees to deal with the uncertainties of the labour market, that is, to reduce the risk of exclusion; and assesses the extent to which they take recourse to employment law to do so.

A juristic analysis of employment law protections (through an analysis of legal texts, journals and court decisions) shows that "new" and pseudo self-employment are barely protected at all; temporary work and telework are comparatively poorly protected; on-call workers are slightly better off; while international employment and - in contrast to the opinion of the experts questioned in an online survey - people working illegally (without papers) are relatively well protected. However, all forms of atypical employment are subject to higher legal uncertainties than standard forms of employment (as confirmed by the experts). The jobs most severely affected are, of course, those that up to today have not been specifically regulated; conversely, while there is some legislation governing atypical employment, it by no means guarantees legal protections in the same way that standard employment contracts do. Further, in Switzerland, all employees - whether in atypical or in standard employment - are poorly protected against dismissal.

Yet even if the legal protection of people in atypical employment were stronger, it is doubtful that employees would effectively benefit from it. As sociology of the law research has demonstrated, what is called access to the law can be impeded in several ways. The present study describes access to the law on the basis of an agent-oriented phase model, which consists of the following stages through which the employee must go: understanding that he or she has rights; expression of these rights vis-à-vis the employer; concrete demand for redress; securing of third-party assistance (for example, an advisory service); establishment of a legal case; and successful outcome of a claim in court. Various individual and structural factors can influence the concrete course of this access to the law and the legal process, and it does not always comprise all of the phases, although the first phase, the employee's understanding that he or she has rights under the law, is essential. Of particular importance to this phase of understanding - and to access to the law in general - are a sense of justice, an awareness of the law and knowledge of the law, and these factors vary according to the employee's social characteristics and community of origin. In addition, there are social costs associated with a legal contest, which for a close personal lasting relationship like employment are relatively high. Under these conditions and considering the poor protection against dismissal in Switzerland, it is therefore not surprising that many people in atypical employment forego access to employment law, even when they understand that they have rights under the law and when the labour market offers no real alternatives.

These connections were confirmed by both a survey of experts and interviews with employees. About 30% of the 204 responding experts reported in general a gap between legal norms and their realization in people's working lives. The reasons for this mentioned most often were a lack of legal knowledge (84%), a lack of self-confidence in one's ability to articulate a claim (57%), the complexity of employment law (54%), a lack of political will (49%) and insufficient resources provided by the state. In addition, almost 37% of experts conceded that the making legal claims a subject of discussion of puts employees' jobs at risk.

People in atypical employment confronted not only with legal uncertainties but also with a weakly regulated and segmented labour market that seriously limits their chances of moving into a secure, standard employment relationship. Indeed, the survey of experts, the interviews with people in atypical employment and the relatively high percentage of working poor among people in atypical employment indicate that there is a risk of job-related marginalisation and insecurity in Switzerland. The job mobility opportunities of those affected vary depending on the type of work and the repertory of resources provided by their community (common types of work in specific communities). The qualitative analysis of the ideal typical strategies for coping that are adopted by people in atypical employment (necessary atypical, transitory atypical, avant-garde atypical) clearly indicated that the employees concerned rarely resort to the law as a means of attempting to deal with job insecurity, and this holds true across the board, practically regardless of the employees' social background, gender, nationality, purchasing power and the form of atypical employment in which they engage. These are connections that in the juristic discourse are not all made the subject of discussion - very much in keeping with the eigen logic of the juristic focus on normative/dogmatic statements.

At the same time, the project revealed that atypical employment accentuates the gap between standard employees and economic instable employees (people in atypical employment and the working poor). International comparisons have shown that a liberal employment law - as is the case in Switzerland - helps to integrate the long-term unemployed, young people and women into mainly the lower paid sector of the labour market. But it also contributes to increasing income disparity among the working population and thus in the medium term has a negative effect on social cohesion in Switzerland.

In order to avoid social disintegration, policy measures are needed that reduce the gap between atypical employment and the integrated core of standard employment and that guarantee a sufficient level of income for all employees and the unemployed. Concerning utilization of the integration potential of employment law, the following measures are recommended: targeted reduction of legal uncertainties through legislative clarification (for on-call work and new self-employment, for instance); measures to improve access to employment law (especially, promotion of people's awareness of their rights and provision of low-threshold legal advisory services); and finally, and absolutely fundamentally needed, better dismissal protections, while simultaneously retaining the flexibility of the labour market.

Duration 01.09.2003-31.10.2006

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The potentialities of social security for the integration of foreigners in Switzerland

Stefan Spycher

Summary of the main results (extract from the final report)

Background

The ability to earn a living is at the heart of a person's socio-economic integration into society. This can be secured either through employment in the private sector or through benefits from the state social security system. If an economically active person loses his/her job through being made unemployed or illness, or if they are unable to find a job, there is a risk that he/she will become entangled in a process of social exclusion. It is therefore interesting when considering "Integration and Exclusion" to consider whether all social groups are granted the same access to unemployment benefit, disability insurance and social welfare benefits. This question will be examined taking immigrants in Switzerland as an example.

Questions

The following complexes of questions were investigated: (1) What access do immigrants have to Swiss unemployment insurance, disability insurance and social welfare? (2) What margin of judgment and action do the legal regulations afford the law enforcement agencies? (3) Is there a sufficient range, both in terms of quantity and in quality, of active measures at the disposal of immigrants for them to enter the private sector job market? (4) Does the context in which immigration took place play a role in the allocation of these measures? (5) What are the effects of the active measures? Do the effects differ according to the context in which the person's immigration took place? (6) Is there unexploited potential in the present execution of active measures for immigrants that could encourage/accelerate their (re-)integration into the private sector job market?

Methods and data

The first part of the project portrays and analyzes the current state of legislation (unemployment insurance, disability insurance and social welfare) at all levels for the year 2005. Social security legislation can only be analyzed in connection with the law on immigrants in this study. In the second empirical part of the study, we selected various methodological approaches (analysis of secondary statistical data, semi-structured interviews) to find out about possible differences between legal entitlement and real access to benefits.

Results

- Not all immigrants are able to benefit from the advantages of unemployment insurance, disability insurance and social welfare to the same extent. Those with almost the same access to benefits as Swiss citizens are immigrants that hold a permanent residence permit or immigrants from an EU/EFTA member state (they represent roughly 80 percent of the total of economically active immigrants). "Almost the same" means that there are exceptions even within this group of immigrants. All other economically active immigrants (about 20%) do not have rights equal to Swiss citizens'. The extent to which access is limited depends on whether there is a social security agreement between the immigrant's home country and Switzerland, as well as on how complete the arrangements of this agreement are.
- Immigrants are more often implicitly excluded from unemployment insurance, disability insurance and social welfare than their Swiss counterparts, as they are more frequently unable to fulfil the preconditions to be eligible for benefits (residential address, length of contributions) and more often have precarious working conditions with low pay.

- It is still possible even today for immigrants to be obliged to leave Switzerland despite having claims for unemployment insurance, disability insurance and social welfare benefits. If, due to unforeseen circumstances, an individual can no longer satisfy the conditions for residence in Switzerland - that is, gainful employment - and his/her residence permit thus expires, then, in matters of unemployment and disability benefits, it is up to the cantonal law enforcement agencies to determine whether the person has to leave the country before being able to receive his/her benefits. If an individual is due to continue receiving considerable amounts of social welfare payments, this can result in his/her being expelled from Switzerland or his/her family being denied entry.

- In general, the law enforcement agencies and civil servants involved in the unemployment insurance, disability insurance and social welfare systems have considerable freedom of judgment and action, and as a result the laws are implemented differently from one region to another.

- With one notable exception, it proved hardly possible to establish any relationship between the context of the clients' immigration and either the organization of the range of instruments among the active measures, on the one hand, or the assignment of immigrants to any particular active measure, on the other. This exception is language skills and trans-cultural communication.

- The active measures employed by social security (counselling, educational measures, employment measures, etc.) in general demonstrate great potential to reintegrate people affected by unforeseen circumstances into the private sector job market, thereby avoiding or limiting the process of socio-economic exclusion. However, the present studies on the efficacy of the active measures linked to the system of unemployment benefits do raise doubts about whether further extension of the existing mechanisms would result in greater success. The conclusion seems irresistible that additional measures (such as further education) should be tested; this would, however, generate extra costs in the short-term. The system of disability insurance, which has a range of active measures that are far less developed, would benefit from an extension of the measures available for early identification and intervention. In social welfare, there are also indications that the measures are of limited effect. Social welfare is a special case, inasmuch as certain groups of beneficiaries (family reunification, arrival of young immigrants after their education) claim benefits for the first time after having had no previous contact with social security. It would appear necessary in this case to strengthen the active integration measures with partial funding through unemployment insurance.

Duration 01.12.2003-31.05.2006

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The way to integration? The role of self-employment in integration processes of immigrants in Switzerland (keyword: EthnicBusiness)

Christian Suter, Renate Schubert, Anne Juhasz

Summary of the main results (extract from the final report)

Summary “Ethnic Business”

The research aims to investigate the role of entrepreneurial activity of immigrants in processes of integration and exclusion. We study the extent to which businesses started by persons of foreign origin promote or hinder processes of integration or exclusion of migrants. The research focuses on two central questions: The first aim is to examine why immigrants initiate self-employment. Are there processes of exclusion (e.g., economic exclusion) that motivate migrants to become self-employed, or is entrepreneurial activity a sign of social integration that enables people to leverage the given opportunities? The second aim is to analyze the consequences of initiating self-employment for immigrants and their respective communities. Does it cause processes of integration, and if this can be observed, how do these processes proceed? As it is assumed that there exist gender differences as well as differences between generations, we will closely scrutinize these dimensions.

The research combines quantitative and qualitative methods of social research by choosing three different techniques of data collection and data analysis. In the first part we investigate the situation of self-employment in Switzerland by statistical analysis of recent data of the Swiss Labour Force Survey (SLFS). The aim is to analyze the most important characteristics of immigrant entrepreneurs and to compare them with Swiss entrepreneurs and with immigrants working as employees (quantitative collection of data and quantitative analysis). In the second part we conduct 35 biographical interviews with self-employed immigrants and entrepreneurs of the second generation of immigrants. First and second generation male and female immigrants of Italian, Turkish, "former-Yugoslavian," and Sri Lankan origin are interviewed in equal shares (qualitative data collection and qualitative analysis). The third and final part includes an analysis of the social networks of the self-employed immigrants. Here we examine if and how social capital contributes to the initiation of self-employment and how founding a business affects the social embeddedness of the self-employed immigrants (mixed design).

The analysis of the statistical data shows that there exist three different patterns of interrelations between economic independence and integration/exclusion processes, respectively. Self-employment has different consequences for peoples of different origin: For southern European immigrants self-employment leads to integration, for immigrants from Eastern Europe to segregation or Understratification (that means that their social position is lower than the natives') and for people from northern and western European countries to Overstratification (that means that their social position is higher than the natives'). This last pattern also applies to second generation immigrants, at least those from certain parts of Europe. These differences reflect the heterogeneity of the migrant population in Switzerland. They show also that the time of immigration and therefore the "age" of a community as well as the motives behind the migration and structural characteristics of the immigrants have an important influence on which pattern will take effect. By means of biographical interviews we reconstructed how integration and exclusion processes happen on an individual level and how these processes are influenced by the individual resources of the interviewed persons. All in all we can conclude that in Switzerland the greater the resources an immigrant has, the more likely he or she is to become self-employed. Social

capital in terms of "Swiss resources" and biographical capital as the sum of biographical experiences are as important for the step to independence as cultural and economic capital.

In all three parts of the research project, the importance of Swiss resources has proved to be decisive for the step to self-employment. The high relevance of Swiss resources for self-employment and the minor importance of what normally is called "ethnic resources" contradict the results of research in other countries. This can be explained by the fact that until now, institutional obstacles have hindered the step to self-employment for immigrants, and Swiss resources are helpful and necessary to overcome these obstacles. Therefore, our results show that there no "ethnic economy" exists in Switzerland as it does in other countries like the United States or Canada.

Another result of our research is that, through their entrepreneurial activity, self-employed immigrants are assuming an important role in integration processes by appearing as hinges between "the established" and "the outsiders." Not only do they develop contacts with "established" Swiss, but they also maintain relationships with immigrants who dispose of fewer resources and who migrated later to Switzerland. As business owners they provide newcomers with employment and enable them to pursue economic integration.

In sum, all three parts of the project revealed differences by gender and generation. In contrast to men, women often choose self-employment in order to better combine work and family life. Our analysis shows furthermore that gender segregation varies by position in the social space. While in lower positions gender segregation is less pronounced among the self-employed than among the employed immigrants, we find the opposite in the higher positions. Concerning the differences by generation, our results show that the children of the former guest workers are becoming self-employed in different economic sectors than their parents. The second generation can now be found in economic sectors that require more education and that are more prestigious than the sectors in which the first generation is working (e.g., computer science). The social networks of second-generation immigrants contain more Swiss resources than those of the first generation. At the same time, although the importance of Swiss resources demonstrates that immigrants in Switzerland are not building "ethnic economies," this does not mean that ethnicity has lost all relevance: for the second generation, their "symbolic ethnicity" becomes a part of their cultural capital and is mobilized for marketing success.

The following recommendations result from our results: We suggest implementing measures that ease access to the above-mentioned "Swiss resources." Among other measures, that requires the opening of entrepreneurial associations to immigrant entrepreneurs and promotion of the self-organisation of entrepreneurs. However, concerning immigrant entrepreneurs' role as "hinges" in integration processes, our research suggests that state intervention would be counterproductive. Likewise, we want to advise against pushing immigrants into self-employment. But those who are already working as self-employed should receive greater recognition for their important economic and social merit by means of increased efforts to change the derogatory public discourse.

Duration 01.07.2003-31.07.2006

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