

# Shedding light on the occupational illnesses of female workers: two steps forward, one step back

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Despite some progress, gender inequalities persist in relation to the recognition of occupational health problems, both in Europe and in North America. In this chapter, after reviewing notable advances over recent decades, we shall examine two contemporary cases based on data from Quebec, Canada: women's exposure to psychosocial risk and the illnesses associated with it, and recognition of forms of cancer linked to women's occupational exposure. We conclude by asking about possible ways of counteracting women's invisible suffering at work.

## Looking back, progress is being made, but...

Gaining recognition for the occupational health problems suffered by women at work was a regular focus of attention in the latter decades of the 20<sup>th</sup> century, largely thanks to trade union campaigns and academic research in North America and Europe. In North America the work of 'The invisible that hurts' research team from Québec (Canada) stands out in particular. It included ergonomics, sociology and law researchers and representatives of the occupational health and status of women committees of the three trade union partners: the Quebec Federation of Labour (Fédération des travailleurs et travailleuses du Québec), the Confederation of National Trade Unions (Confédération des syndicats nationaux) and the Quebec Federation of Trade Unions (Centrale des syndicats du Québec) (Messing and Lippel 2013). In Europe, important research was carried out by the European Trade Union Institute (ETUI) on the occupational illnesses suffered by female workers (Vogel 2011; Vogel 2015). And in France, research resulted in beneficial amendments to the Labour Code (Code du travail); Article L.4121-3 now makes it an obligation, since August 2014, for employers to conduct a health and safety risk assessment that takes account of gender differences in the impact of exposure to risk (Chappert 2015).

The research and debate on this issue highlighted the fact that problems associated with jobs traditionally held by women tended to be overlooked and their work trivialised. In some cases, this has led to greater recognition of the occupational harm suffered by female workers, but also by men – in particular, musculoskeletal illnesses and psychological disorders attributable to working conditions or events at work. Working together, trade unions and researchers have overcome stereotypes that were deeply entrenched in working environments and fed to decision-makers in organisations responsible for the

prevention of and compensation for occupational injuries and illnesses. As a result, the approval rate for claims made by female workers suffering from musculoskeletal disorders or psychological injuries, which was disproportionately low during the earliest studies, has increased to a level comparable with that of male workers (Lippel 2015a; Lippel 2009; Lippel 2005).

Despite this progress, however, gender inequalities in the recognition of health problems linked to work persist. Here, we will examine psychosocial risks and the illnesses associated with them, before going on to look at cancer linked to occupational exposure.

### **The situation today: two specific examples**

#### Illnesses attributable to exposure to psychosocial risks, including violence at work

In our first studies, which looked at the attitude of administrative courts towards claims from female workers suffering from mental health problems, we found that the underlying values in judgments refusing to recognise the occupational nature of these problems were rooted in certain prejudices against female labour (Lippel 1989; Lippel 1999). Where a female worker held a post in a sector normally associated with female employment, the courts could not see why the stressful situations cited by the women were out of the ordinary (the criterion for recognising a psychological occupational injury). If the stressful conditions were considered normal, the claim was rejected. During the same period, where a woman working in a traditionally male environment, such as prisons, was subject to sexual harassment and threatening behaviour, her claim of psychological damage would be rejected on the ground that it was normal for inmates to be sexually frustrated, or that the woman was too sensitive given the nature of the work; these decisions sometimes hinted that she was not in the right job. However, in cases where male prison officers made claims for psychological damage linked to their work, they were usually accepted by the claims authorities (Laprise 2003).

So, what is the situation today? In Quebec, the Commission on standards, equity, health and safety at work (Commission des normes, de l'équité, de la santé et de la sécurité du travail or CNESST; formerly the Commission on health and safety at work [Commission de la santé et de la sécurité du travail or CSST]), now recognises the importance of violence at work as a source of occupational injury. It publishes an annual statistical analysis of claims approved under the Law on occupational accidents and illnesses (Loi sur les accidents du travail et les maladies professionnelles) (L.R.Q., c. A-3.001) concerning incidents of physical violence and psychological and sexual harassment, providing a profile of men and women's exposure. This progress is very welcome, since it gives a better understanding of the actual situation of male and female workers. In its latest report, the Commission once again notes that it is women who suffer more from physical and psychological violence at work (CNESST 2018a). The Commission also publishes reports on the

recognition of psychological injuries attributable to occupational stress, in which it finds that injuries recognised as being connected to acute stress are more or less equally shared between men and women (53 per cent for women versus 47 per cent for men), whereas female workers suffered more than men from injuries attributable to chronic stress (66 per cent) (CNESST 2018b). Cases accepted as being connected to violence and stress at work are particularly to be found in the health and service sectors, where the vast majority of workers are women.

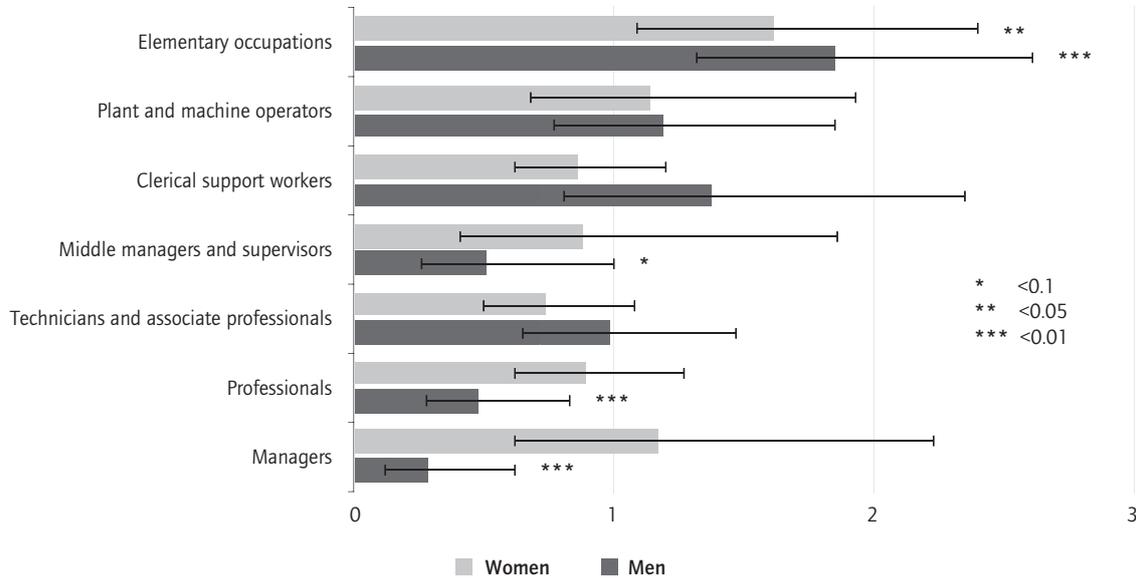
Statistics on recognised injuries are just the tip of the iceberg compared with the number of people exposed to violence and stress at work who go on to develop health problems as a result. A study of a representative sample of the Quebec working population told us that the health sector was, again, where the greatest number of workers reported having suffered violence at work (for all three forms of violence studied: physical violence, psychological harassment and sexual harassment). The vast majority of victims of psychological and sexual harassment were women (the same trend was observed with physical violence, but the differences by gender were not statistically significant) (Lippel *et al.* 2011).

The results relating to psychological harassment were particularly concerning. We found that a worker's position in the occupational hierarchy determined his or her exposure to psychological harassment, with unskilled workers (both men and women) more likely to be targeted than other employment categories. In the other employment categories, however, the picture differed according to the gender of the worker. As Figure 1 shows, among men, exposure declined significantly towards the top of the organisational hierarchy. Among women, on the other hand, being a skilled worker or a manager did not necessarily guarantee protection against psychological harassment. This phenomenon reveals that access to power does not, in itself, protect female workers, whereas the reality is quite different for male workers.

We have presented all the results of the study and outlined the implications for policies governing psychological harassment elsewhere (Lippel *et al.* 2016). However, it should at the very least be noted that women, more than men, remain vulnerable to this form of violence at work, and that the dynamics of psychological harassment differ depending on whether the victim of the harassment is a man or a woman.

In the studies we have already cited, our initial findings linked the low profile of problems faced by female workers with systemic discrimination against them, particularly when it came to recognition of the occupational nature of the injuries they suffered at work. Our first studies highlighted the stereotypes conveyed in decisions of the administrative courts: for instance, it was readily accepted that a policeman's work was stressful and violent, but not the work of a female teacher or benefits officer. We might have thought that these stereotypes were a thing of the past, yet the following example leads us to fear that things have not changed much in Canada.

Figure 1 Occupations and bullying by sex



Source: Québec Survey on Working and Employment Conditions and Occupational Health and Safety (EQCOTESST), 2007–2008

In 2016, the Ontario legislature adopted the Law amending the Law of 1997 on occupational safety and insurance against industrial accidents (Loi modifiant la Loi de 1997 sur la sécurité professionnelle et l'assurance contre les accidents du travail) and the Law on the Ministry of Labour concerning post-traumatic stress (Loi sur le ministère du Travail relativement à l'état de stress post-traumatique) (2016 L.O. c. 4). This law adds post-traumatic stress to the list of occupational illnesses that are presumed to be linked to work, with the diagnosis often given following exposure to an 'acute stress' event. In Quebec, 67 per cent of cases of acute stress accepted in 2017 belonged to this category (CNESST 2018b), and 13.1 per cent of victims of acute stress were in the nursing profession (CNESST 2018b). In Ontario legislation, there is an agreed presumption that post-traumatic stress has been caused by a worker's job if s/he receives the diagnosis while carrying out one of the stipulated occupations: firefighters (various categories), police officers, members of emergency teams (various categories including ambulance workers, dispatchers, etc.) and workers in various categories of prisons. Primarily female occupations (nurses in particular) are excluded from the scope of the legislation, even though in Quebec these are the occupations where post-traumatic stress syndrome is most often recognised as an occupational injury. This raises the question of whether female workers are any less 'invisible' than they were in the twentieth century.

It should be noted that the same government amended its occupational health and safety legislation to specify that sexual harassment was a form of violence at work and thus an occupational risk, and that employers and labour inspectors therefore have prevention obligations. The law came into force in July 2016 (Lois de l'Ontario, 2016, c. 2). This suggests that female workers are

now on the radar for the government and the two sides of industry, but it is typically female risks that are recognised, rather than those arising from low-profile problems in their day-to-day work.

## Recognition of occupational cancers in men and women

In 2015, we published a standard legal study on the recognition of occupational cancers in Quebec, based on an analysis of Quebec's compensation legislation and case law (Lippel 2015b). In preparing for the study, we identified all the judgments on cancer delivered between 1985 and 2014 by the Quebec administrative courts responsible for dealing with claims for the recognition of occupational illnesses. We analysed over 300 judgments. It must be said that the acceptance rate for cancer claims is very low in Quebec, particularly because there are few diagnoses that are presumed, in the legislation, to be linked to occupational exposure. Having said that, it is still remarkable that only eight of the judgments were related to cases involving female workers. Of those, three were upheld, all concerning mesothelioma, a cancer presumed in Quebec legislation to be linked to exposure to asbestos. The five other cases were rejected: two cases of breast cancer diagnosed in two female sterilising staff, working for the same employer, who had been exposed to ethylene oxide as a result of broken equipment; two cases of lung cancer, one working for the same employer and in the same department as the workers with breast cancer, and the other working in dry cleaning; and lastly, one case of bladder cancer in a female aluminium worker, Linda Grondin, who had spent 151 weeks working in Söderberg<sup>1</sup> pot rooms, a location prone to the development of bladder cancers. This last case was rejected on the basis that Grondin had been exposed for a shorter period than men who had had their occupational cancer recognised after exposure in Söderberg pot rooms. The female workers were not covered by epidemiological studies on the effects of exposure to benzo(a)pyrene contained in the polycyclic aromatic hydrocarbons in the pot rooms. No scientific studies on women were submitted to the courts, no doubt because there were none. It is therefore impossible to know whether these carcinogens work differently in women than men, or whether the length of exposure that is sufficient to cause bladder cancer is shorter for women than men. In this specific case, we know that not only was the female worker a tobacco smoker, but that her husband also smoked; astonishingly, however, this evidence was not considered in any of the judgments rejecting claims involving male workers suffering from cancer.

Female workers have often been excluded from academic studies of occupational cancers. In an analysis of the academic literature, published in 2015 (Hohenadel *et al.* 2015), the researchers found that between 1991 and 1995, only 39 per cent of studies on occupational cancer included women.

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1. Various processes are used in the production of aluminium. The 'Söderberg' process enables the reduction of alumina (extracted from bauxite) in large reduction cells. The very process of electrolysis in the cells causes the release of polycyclic aromatic hydrocarbons, which contain, among other things, benzo(a)pyrene.

Between 2006 and 2009, the proportion increased to 62 per cent. By contrast, however, 91 per cent of the studies included men. In a context where a lack of epidemiological evidence means that occupational factors are not recognised as causing cancer, it is not surprising that few women claim compensation for an occupational cancer, and that when they do so, they have less opportunity than men to assert their rights on the basis of scientific knowledge. Funding for research is linked to risks perceived as being work-related, but the rate of recognised occupational illnesses is low (Messing and Boutin, 1997). Meanwhile, doctors do not think to consider occupational exposure in their female patients (even less than for male patients, where it is already uncommon for these issues to be mentioned). So, in the rare instances where women do make claims, it is more difficult to produce evidence because of the lack of scientific data, and in the absence of recognised occupational injuries, there is no incentive to do research: a vicious circle which Karen Messing has documented and criticised on many occasions (Messing and Stellman 2006; Messing *et al.* 2003; Messing 2002).

### **Conclusion: how to overcome the invisible suffering of women at work**

There is better recognition for the occupational injuries of working women in Quebec and Canada now in 2019 than at the start of the collaborative research project carried out by ‘The invisible that hurts’ team. However, there are still problems, not just legal but also political, when it comes to demanding recognition of the risks associated with female labour. The legislation in Ontario recognising post-traumatic stress as an occupational illness illustrates just how complex the issue is. This is the first legislative recognition of this occupational illness in Canadian law: a victory brought about by determined campaigning by the trade unions representing first responders, in particular firefighters, ambulance workers, prison officers and police officers. Since our early studies on occupational stress, it has become widely accepted in society, including among judges, that this type of work is a source of stress (Lippel 1989). However, it has taken twenty-seven years since that publication noting the institutional acceptance of the stressful nature of these occupations – by the Commissions des accidents du travail [Workers Compensation Board] and by the courts – for the legislature to recognise what decision-makers widely accepted in the 1980s. If the union coalition of 2016 had campaigned to include female nurses, more of whom than first responders are affected by violence at work and post-traumatic stress, it is possible that the legislature would quite simply have refused to adopt this innovative legislation. Is fighting for the recognition of female occupational illnesses therefore a double or nothing gamble?

As regards the recognition of occupational cancers in female workers, the challenges are even greater. First of all, it is extremely difficult to combat the power of industrialists who produce carcinogens and expose workers of both sexes to them (Thébaud-Mony 2014), thus making it difficult for occupational

cancers to be recognised. Secondly, investment in research into the occupational causes of cancer is declining (Raj *et al.* 2014), while research into occupational cancers among female workers has never been a priority (Hohenadel *et al.* 2015). Rare studies into the occupational causes of breast cancer have been the subject of controversy among academics (Brophy *et al.* 2012; Brophy *et al.* 2013), suggesting that we are a long way from the academic consensus needed for legislative reform of occupational diseases agenda.

There is some cause for cautious optimism, but if we want change to happen faster than the current snail's pace, researchers and trade unions must continue to highlight the occupational health problems faced by female workers.

## Editor's note

On 12 June 2018, important amendments to the Labour Standards Act came into force in Quebec. Three of them concern psychological harassment: the definition of the concept now officially encompasses words, actions or gestures of a sexual nature. The deadline for lodging a complaint has been changed from 90 days to 2 years. Since 1 January 2019, all employers must adopt a policy on the prevention of psychological or sexual harassment and on handling complaints.

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