

# A Better Future for Women at Work

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## 1. Introduction

Although nearly a century has passed since the International Labour Organization (the ILO) adopted its initial two Conventions on women and work, the barriers to women in the world of work, including accessing the labour market and recognising and valuing the work of women, remain pervasive, stubbornly resisting attempts at change. Explicit laws, invisible structures and cultural norms shape and limit the range of work women undertake. Throughout the developed and developing world, women have difficulty accessing good quality jobs or to the financing and infrastructure needed to establish their own businesses. The result is that women predominate in lower paid sectors of the economy. The majority of the world's women work in the informal economy, characterised by work arrangements and employment relations that fall outside the scope of labour law, collective agreements and social protection. Regardless of the specific type, informal work is marked by insecure working arrangements and difficult working conditions. Even when women work in the formal labour market, they continue to be trapped in non-standard employment<sup>1</sup> or unable to break glass ceilings, with significant repercussions both for their current earnings and future pension entitlements. While progress has been made on some fronts, new challenges are emerging. The increasing fragmentation of labour and the rise of the gig economy, rather than

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<sup>1</sup> Non-standard employment includes temporary employment, part-time work, temporary agency work and other multi-party arrangements, and disguised employment relationships and dependent self-employment. See ILO, 'Non-Standard Employment Around the World: Understanding Challenges, Shaping Prospects' (2016)

<[http://www.ilo.org/global/publications/books/WCMS\\_534326/lang-en/index.htm](http://www.ilo.org/global/publications/books/WCMS_534326/lang-en/index.htm)> accessed 16 July 2018.

breaking cycles of disadvantage, can continue to trap women in low paid and low status jobs. Underpinning many of the challenges women face is the fact that women and girls continue to provide the lion's share of unpaid care work.

The scope of the challenge for improving women's access to and progression in the labour market, and to recognise, value and improve the work women undertake, is extensively documented. But we have yet to find and implement comprehensive solutions to these seemingly intractable obstacles. Women have made it clear that they want to work in paid jobs. Yet there are far fewer women than men in the labour market,<sup>2</sup> and the current situation falls far short of meeting the vast majority of women's needs or aspirations. There is increasing frustration as current legal and policy strategies have failed to break cycles of disadvantage. Anti-discrimination laws, equal pay laws, maternity leave, social security laws, minimum pay and working time laws, and laws governing atypical work have not resulted in women's equality in the labour market. While some women have benefitted, too many women have not. The disappointing conclusion is that law as currently formulated has not worked to fully secure a better future for women at work. This failure has led some to question the potential of law for facilitating the recognition of the value of work undertaken by women, and particularly for addressing the interaction between paid and unpaid work. Is law simply unable to address the complex situations in which women work? Can the law have any meaningful role in reshaping deeply entrenched gender relationships that permeate the economy?

In order to examine these questions and seek out new approaches, the Oxford Human Rights Hub in partnership with the ILO and the University of Kent hosted an international conference: *A Better Future for Women at Work* in May 2017. The conference papers and discussions were an important contribution to the ILO's Women at Work Centenary Initiative, which is seeking to better understand why progress on delivering decent work for women has been so slow and what could be done to accelerate progress. The conference brought together a wealth of experience from practitioners, academics and policy makers from around the world and across disciplines to create a forum in which to explore innovative and transformative legal strategies and policy responses that move beyond traditional debates on women's role in the

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<sup>2</sup> ILO and Gallup, 'Towards a Better Future for Women and Work: Voices of Women and Men' (2017) <[http://www.ilo.org/global/publications/books/WCMS\\_546256/lang-en/index.htm](http://www.ilo.org/global/publications/books/WCMS_546256/lang-en/index.htm)> accessed 16 July 2018; ILO, 'World Employment and Social Outlook: Trends for Women' (2018) <[http://www.ilo.org/global/research/global-reports/weso/trends-for-women2018/WCMS\\_619577/lang-en/index.htm](http://www.ilo.org/global/research/global-reports/weso/trends-for-women2018/WCMS_619577/lang-en/index.htm)> accessed 16 July 2018.

labour force. The articles in this inaugural issue of the *University of Oxford Human Rights Hub Journal* are the culmination of that conference. They bring together a unique global and interdisciplinary perspective on what is required to guarantee a better future for all women at work.

## ***2. An Unwavering Commitment to Substantive Equality***

The driving principle behind this collection has been to ‘think out of the box’, to consider new solutions based on an understanding of the crucial interaction between gendered roles in the family and women’s participation in the paid workforce, in public life and in household decision-making. This challenge requires an understanding of gender equality which goes beyond striving for the same treatment for women as men, on the one hand, and the preoccupation with outcome data, on the other. Instead, a substantive conception of equality, to be capable of achieving a better future for women at work, needs to address women’s inequality in a multi-dimensional way. Substantive equality should simultaneously redress disadvantage (the redistributive dimension); address stigma, stereotyping, prejudice and violence (the recognition dimension); facilitate participation and voice (the participative dimension); and bring about structural change (the transformative dimension).<sup>3</sup>

The first dimension, the requirement to ***redress disadvantage***, is a frankly asymmetric view of equality. Rather than assuming that men and women should be treated alike, its focus is on the disadvantage that attaches to gender. From this perspective, affirmative action, or special measures to redress disadvantage, do not constitute a breach of equality, but rather a means to achieve it. This conception in turn requires a searching exploration of the nature of this disadvantage. As the articles in this issue show, to understand disadvantage, it is not sufficient to consider only income, especially where it is calculated in terms of

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<sup>3</sup> Sandra Fredman, ‘The Future of Equality in Great Britain’ (2002) Working Paper No. 5, Equal Opportunities Commission; Sandra Fredman, ‘Substantive Equality Revisited’ (2016) 14 *International Journal of Constitutional Law* 712. This approach has been adopted in domestic and international law. See Equality Act 2010, s.149 (UK); UN Women, ‘Progress of the World’s Women 2015-16: Transforming Equalities: Realizing Rights’ (2016) <<http://www.unwomen.org/en/digital-library/publications/2015/4/progress-of-the-worlds-women-2015>> accessed 16 July 2018; UN Committee on the Rights of Persons with Disabilities ‘General Comment No. 6 (2018) on equality and non-discrimination’ (2018) CRPD/C/GC/11 [11].

household income. It is important to take a holistic approach to disadvantage, examining what access women have both to household income, and to a range of other assets, including social protection, property, and credit. Such an approach in turn requires a consideration of the power relations that impede such access, particularly within the family. Moreover, understanding disadvantage needs to confront women's different social locations, recognizing the interacting roles of class, race, disability, sexual orientation and migration status in creating gendered disadvantage. As Rose-Marie Antoine's article in this volume shows, women in different social locations experience disadvantage in specific ways, which require particular attention in designing legal and policy intervention.

Secondly, substantive equality should **address stigma, stereotyping, prejudice and violence**. One of the primary sources of stereotyping is the assumption that women should take on primary responsibility for care work. Women's stereotyped role in relation to unpaid care work has wide effects. It undervalues caring work on the assumption that such work can in principle be performed unpaid in the home. This assumption has consistently driven down the value attached to caring work performed in the paid labour market. The stereotypes driving women to take primary responsibility for caring and domestic work in the home also create obstacles to women's full participation in work with decent standards. Women with such responsibilities are propelled into part-time and casual work, much of which is excluded from employment protection rights. Women are additionally stereotyped as sexual beings, leading to sexual harassment and violence, in the home, at work or on the streets. These stereotypes are a fundamental negation of women's right to dignity and recognition. Substantive equality therefore requires the proper valuing of care work, as the articles by Elizabeth Hill and Aelim Yun in this volume demonstrate. It also requires concerted and institutionalised initiatives both to combat violence in the work place, as the article by Katherine Lippel in this volume explains, and violence in the home that spills into the workplace, which is the subject of the article by Ludo McFerran, Anna Lee Fos Tuvera and Jane Aeberhard-Hodges.

Addressing stigma, stereotyping, prejudice and violence does not, however, posit a male norm. Instead, it requires proper recognition of the social and personal value of care, and recognition of each individual's dignity and value. The ILO Domestic Workers Convention, 2011 (No. 189) is a striking example of the ways in which a reorientation and characterization of domestic work can change the value attached to such work. It also shows that international law can have a significant role in making visible the invisible. Instead of being regarded as 'part of the

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family' or as a 'servant', the Convention requires domestic workers to be recognized as workers and given appropriate terms and conditions, and has had a significant impact at the national level.

The third dimension requires substantive equality to **facilitate participation and voice**. This dimension places emphasis on individual agency, as well as collective action through solidarity and social mobilisation, requiring proper participation in decision-making. It is, however, challenging in that it interrogates the representativeness of different voices, and specifically pays attention to intersectionality and the need to give proper space to contested positions and those who are often not heard. For example, as Elizabeth Hill's article in this volume shows, proper provision for child-care for informal workers is not possible without dialogue with women in the informal economy themselves.

The final dimension requires substantive equality to address structural barriers and achieve **structural change**. This is the transformative dimension of equality. It requires an acceptance that equality does not preclude difference: rather, difference should be accommodated and valued. Structural change for a better future for women at work will need to recognize the dynamic interaction between reproduction and production, not just for women, but also for men. Reconstructing gender relations requires both that women can enter the paid workforce on equal terms, and that men take on caring roles in the home, as well as in the labour market. Similarly, this dimension prompts a radical reconstruction of the public-private divide, which recognizes that the workplace can be at home, in public spaces, in other people's homes and virtual, through the internet. It also requires closer attention to be paid to the provision of public services, ensuring that caring is recognized as a social function, to which everyone should contribute.

The multidimensional approach to equality requires attention to be paid simultaneously to all four dimensions when designing policy intervention or legal change. For example, cash transfers which are conditional on women taking their children to health-care facilities might redress disadvantage but entrench gender stereotypes. Moreover, if the sums transferred are too small, cash transfers might mitigate against structural change because they divert public money away from investment in publicly available services. To achieve substantive equality, cash transfers would need to be unconditional; they would need to include women's voices in their design, and they would need to co-exist with proper investment in public facilities. Similarly, provision of paid maternity leave is essential to redress disadvantage. But it also risks entrenching stereotypes unless it is accompanied by paid paternal leave of an adequate duration, so that childcare responsibilities can be shared. Organization into trade unions or other kinds of mobilization similarly

facilitate voice, but collective organization will not redress disadvantage unless the most marginalized are included. In all these cases, the design of any equality-enhancing intervention should be adjusted to ensure that all the dimensions of equality are addressed.

### ***3. Multifaceted Strategies for A Better Future for Women at Work***

To move towards this multi-faceted goal of substantive equality, the articles collected in this volume raise several crosscutting themes. Particularly important is the role of law and legal change. To bring about structural change, it is important to recognize law as having the power both to cause gendered disadvantage, on the one hand, and to facilitate change, on the other. This is clearly seen in relation to precarious work. Precarious work is both a function of the interaction between unpaid and paid work, and of laws that attach employment rights to specific forms of employment relationships based on the contract of employment.<sup>4</sup> It is primarily because the legal definition of employee for the purposes of employment law often excludes many types of work undertaken by women that such work becomes precarious. Moving towards substantive equality therefore demands legal recognition of rights as inhering in all workers, regardless of their contractual status. Using law to bring about change further necessitates a re-characterization of those who are responsible for securing workers' rights. The contract of employment characterizes the employment relationship as binary, assuming that legal obligations should only fall on the 'employer' who is a party to the contract with the employee. Instead, responsibility should fall, not only on the employer as narrowly defined by a contract, but also on all those who are in a position of power and are capable of securing those rights. As the articles in this volume show, this means that a holistic approach to law should be taken, encompassing not just labour law, but a range of legal constructs and domains, including social security law, urban planning laws and family and property law. In addition, a move towards substantive equality requires recognition of the ways in which existing laws individuate workers, and an alternative approach that facilitates the collective.

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<sup>4</sup> See further Sandra Fredman and Judy Fudge, 'The Contract of Employment and Gendered Work' in Mark Freedland et al (eds) *The Contract of Employment* (OUP, 2016); Sandra Fredman and Judy Fudge, 'The Legal Construction of Personal Work Relations and Gender' (2013) 7 *Jerusalem Review of Legal Studies* 112-22.

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The structure of law as rooted in particular countries raises further challenges. On the one hand, to secure a better future for women through legal change requires attention to local specificities. On the other hand, the interconnectedness of the global labour market, through global care chains, migrant labour and tax avoidance, risks a race to the bottom unless overarching frameworks, such as those provided by the ILO, can be provided. The challenge is then for these standards to navigate the important relationships between local and global norms in order to develop truly transnational legal norms. Furthermore, we need to be sensitive to the limits of law as a top-down mechanism. More attention needs to be paid to discovering the levers for organizational and cultural change.

The second major theme is the role of care work, whether paid or unpaid. Legal strategies have been centrally shaped by the perceived rigid boundary between work in the home and work in the market. Yet it is well known that women's unpaid caring work in the home has a major effect on their ability to achieve decent work in the labour market. Gender norms on care are deeply embedded and stubbornly difficult to modify. Although women's labour force participation has dramatically increased (though the gender gap in participation has not significantly decreased), this increase has not resulted in any significant changes in the gender distribution of paid and unpaid care work. Instead, the growth in women working outside the home for pay has raised even further challenges with respect to women's care work, particularly in the protection of domestic workers, and especially migrant domestic workers. The severe reduction of public services, the weakening of employment protections and the increasing need for elderly care are exacerbating longstanding issues on gender and care work. Moreover, the burden of care work creates self-sustaining patterns. For example, girls' caring responsibilities limit the time and energy they have to invest in education, training and skills.<sup>5</sup> This knowledge gap negatively impacts their ability to secure a job with just and decent working conditions or to access the financial resources needed to be economically independent and empowered. The articles in this volume show that catering for the needs of carers and care recipients is crucial to any strategy for achieving a better future for women at work.<sup>6</sup>

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<sup>5</sup> UN Committee on the Convention on the Elimination of Discrimination Against Women, 'General Recommendation No 36: girls and women's right to education' (2017) CEDAW/C/GC/36.

<sup>6</sup> ILO, 'Care Work and Care Jobs for the Future of Decent Work' (2018) <[https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/--publ/documents/publication/wcms\\_633135.pdf](https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/--publ/documents/publication/wcms_633135.pdf)> accessed 16 July 2018.

A truly transformative legal and policy approach to care work would harmoniously pursue: (i) the *recognition* of care work to ensure that women who work in the formal and informal care sector enjoy fair and just working conditions and that employers develop care friendly policies for women and men; (ii) the *reduction* of care work by properly investing in public services including health care, education and affordable child care services; and (iii) the *redistribution* of care work among multiple actors including the state and men by adopting amongst other things adequate paternity and parental leave policies.<sup>7</sup> Such an approach would also pay attention to the all four dimensions of substantive equality. The need to redress disadvantage as well as to address stereotyping mean that a proper recognition of the value of care work should be translated into redressing the gendered disadvantage in the labour market resulting from such stereotyping. Reduction of care work requires structural change, the fourth dimension, but this should not ignore the need to redress disadvantage, specifically by ensuring decent work for care workers working in affordable child care services. The redistribution of care work among multiple actors radically changes the stereotype of women as carers, the second dimension, by requiring society as a whole to value and share in the responsibility for caring. In addition, what should not be forgotten is the need for participation by women in many different social locations in decision-making in this context.

Linked to the unequal and gendered division of care work is the third overarching theme – the dominance of women in the informal economy. In parts of the world ‘informal employment accounts for more than half of non-agricultural employment.’<sup>8</sup> Informal work is not only a characteristic of the developing world. Despite predictions that the informal economy ‘would disappear as developed economies industrialised,’<sup>9</sup> the changing nature of work has seen a rise in the informalisation of work in the developed world.<sup>10</sup> Informal working relationships deviate from the standard formal employer-employee model and are marked by lack of social protection and labour rights, poor

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<sup>7</sup> UN Working Group on Discrimination Against Women in Law and Practice ‘Discrimination Against Women in Economic, Social and Cultural Life with a Focus on the Economic Crisis’ (2014) A/HRC/26/39 [91]-[97].

<sup>8</sup> Pamhi Bamu, ‘Extending Occupational Health and Safety Law to Informal Workers: The Case of Street Vendors in South Africa’ (2018) 1 University of Oxford Human Rights Hub Journal 62.

<sup>9</sup> *ibid.*

<sup>10</sup> Judy Fudge ‘Blurring Legal Boundaries: Regulating Work,’ in Judy Fudge, Kamala Sankaran and Shae McCrystal (eds) *Regulating Work: Challenging Legal Boundaries* (Hart, 2012) 1.

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working conditions and low pay.<sup>11</sup> Women work in the informal sector in a variety of roles, including as domestic workers, home-based workers and unpaid contributing family workers.<sup>12</sup> Most people do not enter the informal economy by choice, and there is evidence that workers in the informal economy face a higher risk of poverty than those in the formal economy.<sup>13</sup> They are often part of global value chains, creating even greater challenges for legal regulations across boundaries. Moreover, as Yun and Antoine's articles show, the boundaries between formal and informal work are continually shifting, as women's caring work in the formal economy becomes increasingly informalised, and terms and conditions of such work in the formal economy come to reflect those in the informal economy.

### *A. Recognising, Rewarding, Reducing and Redistributing Care Work*

The articles in this issue evaluate efforts in different parts of the world to transform care work. Elizabeth Hill's article '**Early Childhood Education and Care for Informal Women Workers: Developing an Emancipatory Framework for Better Working Futures**' takes a fresh approach to care work. Hill makes the crucial point that, although a vast majority of women work in the informal sector, child care services have not adapted to non-formal working patterns. She argues that care policies must fully account for informal women workers' poor working conditions, low wages, and their care responsibilities while also paying proper attention to children's wellbeing. Particularly important is the need to ensure decent work for early child care workers. Hill evaluates models of early childcare for informal workers in India, Mexico and Chile to tease out features for successful policies. She concludes that adequate budgets, robust regulatory mechanisms and dialogue with informal women workers are crucial to ensure that care services respond to their needs.

It is also essential to recognize that care is required throughout the life cycle, not just in early childhood years. Moreover, there is an

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<sup>11</sup> Naoko Otake, 'Gender and the Informal Economy: Key Challenge and Policy Response' (2017) ILO Employment Working Paper No 236 <[http://www.ilo.org/wcmsp5/groups/public/---ed\\_emp/documents/publication/wcms\\_614428.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_emp/documents/publication/wcms_614428.pdf)> accessed 9 July 2018; ILO, 'Women and Men in the Informal Economy: A Statistical Picture' (2018) <[http://www.ilo.org/global/publications/books/WCMS\\_626831/lang-en/index.htm](http://www.ilo.org/global/publications/books/WCMS_626831/lang-en/index.htm)> accessed 16 July 2018.

<sup>12</sup> Otake (n 11) 7.

<sup>13</sup> ILO, 'Statistical Picture' (n 11).

increasing professionalization of care work. It is vital therefore to pay close attention to the working conditions of care workers. Aelim Yun's article '***The State Made Informalisation of Women Workers: A Case Study into Care Work in South Korea***' highlights the extent to which law can construct precarious work, and in particular, how the boundary between formal and informal work is not itself an indication of decent work. She does this by honing in on the increasing challenge of elderly care and care in hospitals. To address this challenge, South Korea is pursuing a combination of formal and informal care work policies. Through an analysis of the narrative around care work and employment policies, she demonstrates that the conditions of formal care work for the elderly mimic informal conditions, concluding that care services in both the formal and informal sector are precarious. The article therefore argues that to improve the conditions of care work, it is essential to raise the minimum wage and to have stronger protection for collective action.

### *B. Legal Strategies and Informal Work*

The dominance of informal work makes it imperative to carefully consider how law and policy can improve the working conditions of informal workers. This requires a departure from an exclusive focus on labour law and the pivotal role of the employment contract as the fulcrum for rights. Hill's article in this volume explores how care policies can support informal women workers. The role of health and safety laws in protecting informal workers in a municipal setting is the crucial contribution made by Pamhi Bamu in her article '***Extending Occupational Health and Safety Law to Informal Workers: The Case of Street Vendors in South Africa.***' Bamu's article is concerned with street vendors, who are predominantly women, operating in public spaces selling goods and providing services. They experience high levels of pollution, severe back pain from standing on their feet for prolonged periods of time, have limited access to sanitary facilities and are often blamed for urban filth. Because their work takes place in the streets, street vendors are excluded from occupational health and safety laws, despite their dangerous working conditions. Indeed, public health laws and municipal ordinances frequently punish street vendors, ostensibly to protect public health. Bamu persuasively argues that occupational health and safety laws must be extended to informal street vendors. She provides examples of how the current laws can be adapted, including dealing with the difficulties raised by unregistered street vendors. Importantly, she emphasizes the participative dimension of substantive equality, demonstrating that informal women workers and

civil society organizations who support them must be key and vocal figures in the process of adapting occupational health and safety laws and policies. While Bamu focuses on a specific sector in a specific country, her article more broadly demonstrates how different branches of law, not traditionally thought of in terms of labour markets, can be powerful tools to ameliorate the working lives of informal women workers.

### *C. Beyond Equal Pay: Gender Pay Equity*

Historically, legally permissible gender-based and unequal wage rates and job segregation based on gender have combined to create deep-seated practices that have resulted in women being paid less than men for the same and comparable work, or work of equal value, and in women's confinement to lower paid jobs with fewer avenues for advancement. These practices have been institutionalised such that they have become invisible and women are characterised as choosing to perform different and 'less valuable' work. In many parts of the world, pay discrimination, (which is more often than not indirect rather than direct), and job segregation on the basis of gender, are still widespread. The result is that women are paid less than men, receive fewer job-related benefits and are confined to dead-end jobs. Not only do these practices and results contribute to women's dependence upon a male earner in order to support children and other dependents, they follow women throughout their life cycle – their pensions and entitlements to social protection are lower than those of men.

The dominant strategies for dealing with what is now characterised as the gender pay gap are legal requirements or policies requiring equal pay for equal work or equal pay for work of equal value. However, the problem with these strategies is that they take the male wage as the norm; they are typically confined to a single employer's establishment; and they require individual women or their representatives to take the initiative to unearth discriminatory pay practices and to fight them. For these reasons, Jill Rubery and Aristeia Koukiadaki in ***Institutional Interactions in Gender Pay Equity: A Call for Inclusive, Equal and Transparent Labour Market*** argue that gender equity and inclusive and transparent labour markets should be pursued as joint goals. What this means is that gender equity concerns should be mainstreamed into inclusive labour market policies and that inclusivity goals should be mainstreamed into gender equity policies within a broader framework of transparent labour markets. The beauty of this approach is that it does not create silos for different elements of pay equity policies, but, instead, approaches them as an integrated whole.

Moreover, inclusive and transparent pay policies should help to reduce any potential backlash from men who blame women, and not their employers or government funders, for reductions in their pay.

Rubery and Koukiadaki begin by providing an elegant synthesis of the range of voluntary, collective and regulatory strategies currently on offer to reduce the pay gap and an analysis of the contributions and shortcomings of these different types of initiatives. The original contribution that they make is to develop a four-dimensional policy heuristic that tackles low wages and their social consequences in general, and discriminatory pay practices in particular. They also develop the idea of a 'gender duty' as a new way of combining legal, collective and voluntary measures for dealing with the constellation of processes, which include pay systems, working time, recruitment and progression, which result in women's low and unequal pay. Instead of dealing with the problem once it has congealed in women's low pay, their strategy is to devise policies that prevent women's low pay from becoming institutionalised.

#### *D. Intersectionality At Work*

It is increasingly clear that, while women as a whole suffer from disadvantage in relation to work, there are sharp divisions between women in different social locations. For substantive equality to be achieved, it is crucial that these divisions be acknowledged and addressed. Class, race, disability and migrant status are among the many different axes of disadvantage that intersect to intensify inequalities, creating fissures which are not just quantitative but also qualitative. Since Kimberle Crenshaw's path breaking work cast the spotlight on intersectionality, there have been many attempts to find legal and policy strategies to address this issue. Rose-Marie Antoine's article in this volume, '**An Intersectional Approach to Addressing Gender and Other Forms of Discrimination in Labour in the Commonwealth Caribbean**', shows the value of an intersectionality approach in revealing the multi-faceted and complex dimensions of inequality. Using the Commonwealth Caribbean as her focus, she demonstrates how current inequalities are still influenced by a colonial legacy that, despite a Black majority population, still perpetuates inequality through the intersections of gender, race, class, age and social and geographical origin. Moreover, she illustrates how all of these identities are fractured, with hierarchies within racial and gender categories reflecting the continuing role of intersectional inequality. Anti-discrimination legislation in the region, however, continues to envisage

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discrimination as grounded on a single axis framework. Nevertheless, she shows that there is scope for judicial interpretation, properly informed, to produce a more dynamic and realistic frame for addressing discrimination. More importantly, both policy and legal interpretative techniques should be designed proactively to take into account the different challenges, needs and interests of differently situated women, particularly their difficulty in accessing finances and capital, the unequal demands of family and household responsibilities, and social conditioning.

### *E. Combating Violence and Harassment at Work*

Violence in the world of work is not a new phenomenon, but it has been largely invisible until recently. High profile cases and global campaigns have shone a spotlight on violence and harassment, revealing how pervasive and ‘normalized’ it is across the globe. It affects all countries and all sectors, and undermines efforts to achieve gender equality and decent work. Given the impact of violence on the world of work, the ILO constituents have agreed that the issue should be considered for standard setting, including a possible treaty.<sup>14</sup> Katherine Lippel’s article, **‘Conceptualising Violence Through a Gender Lens: Regulation and Strategies for Prevention and Redress’**, examines conceptual and policy considerations through a gender lens. Her article in this volume presents an overview of the literature on occupational violence and the regulatory frameworks to address it. Beyond sexual violence and sexual harassment, there has been little attention given to the nature and extent of violence to which women are exposed at work or because of the nature of their work. The perspective provided by Lippel is long overdue and particularly helpful in supporting the design and implementation of regulation and policies that are gender responsive. She makes a strong case for an integrated approach to regulating violence in the world of work (which extends to commuting to and from work), with a focus on rights and prevention, and calls for approaches that make visible the gendered and discriminatory dimensions.

Lippel tackles a range of definitional issues, including physical, psychological, sexual and discriminatory violence and harassment, technology-based violence, as well as workplace-related intimate partner

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<sup>14</sup> ILO, ‘Reports of the Standard-setting Committee on Violence and Harassment in the World of Work: Resolution and Proposed Conclusions Submitted for Adoption by the Conference’ (2018) Provisional Record No. 8A, International Labour Conference, 107th Session. See also ILO, ‘Ending Violence and Harassment Against Women and Men in the World of Work’ (2018) Report V(1), International Labour Conference, 107th Session.

violence. She provides a framework for conceptualising violence at work that is attentive to its particular impact on women, and she identifies a series of determinants of violence, including those associated with the structure of the organization and psychosocial risk factors. The high prevalence of violence affecting women in the health care sector and in education highlights the interlinkages between this article and others in this volume regarding care work and its impact on women at work. Noting the wide range of national regulatory approaches, including through criminal, civil, human rights, labour, non-discrimination, occupational safety and health and workers' compensation laws, she argues that protection against violence needs both to be mainstreamed and to cover all workers. Although laws and policies are essential to end violence at work, these initiatives need to go hand in hand with changing workplace culture and the perception that violence and harassment is tolerated. Lippel's work has been particularly important in the preparatory phase of the ILO's standard-setting process.<sup>15</sup>

Ludo McFerran, Anna Lee Fos Tuvera and Jane Aeberhard-Hodges's article, '**An Employment Right - Standard Provisions for Working Women Experiencing Domestic Violence**', explores how the impact of domestic violence against women spills into the workplace to impose a double disadvantage on women. Approaches to addressing the impact of domestic violence on women at work range from reforming more general laws on collective bargaining, employment, anti-discrimination and occupational health and safety, to specific violence against women legislation that targets the workplace. In this article, McFerran, Fos Tuvera and Aeberhard-Hodges assess the efficacy of different approaches by focusing on two different strategies, one from Australia and the other from Philippines. Australia has predominantly relied upon domestic violence clauses in collective bargaining agreements, whereas legislation has been the technique adopted in the Philippines. They analyse the factors that have contributed to improved conditions and the implementation of domestic violence rights at work, the role of trade unions in driving advances and maintaining good implementation, and the challenges to further progress. The authors conclude that a vibrant and inclusive trade unionism is necessary both for a broadening of existing workplace anti-discrimination rights to embrace domestic violence to counteract its negative effects for women at work; and for the development, implementation and

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<sup>15</sup> See her report for the ILO on which her article in this issue draws: Katherine Lippel, 'Addressing Occupational Violence: An Overview of Conceptual and Policy Considerations Viewed Through a Gender Lens' (2016) ILO Working Paper No 5 <[https://www.ilo.org/wcmsp5/groups/public/---dgreports/---gender/documents/publication/wcms\\_535656.pdf](https://www.ilo.org/wcmsp5/groups/public/---dgreports/---gender/documents/publication/wcms_535656.pdf)> accessed 16 July 2018.

institutionalisation of new kinds of employment rights, such as domestic violence leave and the right to request flexible working time so as to attend to domestic violence-related matters.

#### ***4. Conclusion***

The articles in this volume, and the ongoing discussion they generate, demonstrate that although past legal interventions have only achieved partial success, the promise and potential of law remain. It is important not to dismiss the gains that have been achieved in some spheres and in some jurisdictions, partial as they are. Law still retains a vital role in modifying cultural norms and oppressive structures that underpin women's role in the labour market. Properly structured, legal and policy strategies can and do empower women around the globe. To do so, however, we need to take a holistic view, which breaches the boundaries between work and home, between labour law and other types of law, and which simultaneously redresses disadvantage, addresses stereotypes and violence, facilitates voice and addresses structural change, taking full account of women's different social locations. The articles in this inaugural volume of the *University of Oxford Human Rights Hub Journal* separately and collectively take an important step in opening up new and hopeful possibilities.