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How do French and Quebec law organize and contribute to the occupational integration and job retention of workers with a mental health disorder?

Doctoral dissertation in law under the supervision of the late Katherine Lippel and Denis Nadeau (University of Ottawa) and Sylvaine Laulom (Université Lyon 2).

Abstract

Keywords: Mental health disorder, mental disability, occupational integration, job retention, effectiveness of the law, normative pluralism, comparative law, empirical study.

This doctoral dissertation in law studies the ways in which French and Quebec law do or do not facilitate access to and retention in employment for workers with a mental health disorder (severe or transient). Its main purpose is to show how their situation (specific to the sources and characteristics of their disorder) interrogates the promotional objective of these national laws to promote the employment of people with disabilities. It also clarifies the role they take among the other actors of professional support and, consequently, their influence on these same actors. The mixed methodological approach which is used combines a classic analysis of the law with a study of literature from other social science disciplines and from a survey in the form of semi-structured interviews with key informants in the return-to-work process. The results of this research show that, despite the creation of more or less restrictive systems for the occupational integration of people with disabilities, people with a severe mental health disorder remain on the margins of these systems. Paradoxically, these same workplaces are seeing a sharp increase in the number of workers with more transient mental health problems. And yet, this population suffering from psychological distress, most often because of their working conditions, is given little consideration by the legislative systems dedicated to disability (due to the transitory nature of their disorder) and by occupational injury compensation schemes (recognition of which remains difficult). And whatever the occupational or non-occupational source of their disorder, they are for the most part covered only by the provisions of ordinary law (the duty to adapt and reclassify in France, and the duty to accommodate in Quebec), which, when all is said and done, remain overly procedural and formal, and value the biomedical approach (limiting any expression of workers' subjective experience) to the detriment of the reassured (re)construction of their health at work. All these difficulties call for a review of the law and practices. This thesis identifies solutions, or at the very least, serious avenues for reflection and action aimed at government players, prevention and occupational health services, and the immediate parties involved in labor relations.