

Work in progress September 24, 2018
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Do Trade Unions Promote Age Diversity and Intergenerational Solidarity?

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In this Article, the authors explore – through a survey of collective agreements, case law, unions' constitutions and websites – how trade unions in Canada and Israel balance and effectively support the interests of older and young workers. While unions in both countries promote age diversity to some extent (Canadian unions more than Israeli unions), they do not take sufficient action to promote intergenerational solidarity and in sometimes even inhibit solidarity between generations. The authors conclude with some policy recommendations and emphasize the importance of viewing the interests of older and young workers as common and interrelated rather than competing or conflicting.

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1. Introduction

Despite the rapidly aging population of the Western world and the considerable difficulties trade unions face in attracting new members, research is limited on how unions balance and effectively support the interests of older and young workers. This Article therefore aims to explore whether trade unions promote or inhibit age diversity and intergenerational solidarity in the workplace. To this end, we conducted a survey of collective agreements, case law, unions' constitutions and websites in order to critically assess the initiatives advanced by trade unions in Israel and Canada.

We have chosen to focus on these two jurisdictions, as they share some important characteristics. Union density is similar in both countries, and despite a global decline remains relatively high, especially in the public sector as compared to the private sector (Employment and Social Development Canada 2016: 3; CBS 2014: 104). Furthermore, both countries can be characterized as social-democratic countries with progressive antidiscrimination laws, which have experienced major demographic shifts in recent decades as their populations grow older (Statistics Canada 2017; CBS 2016a; CBS 2016b). Indeed, the employment rates of older workers in both countries have increased significantly over the last decade, and continue to climb (OECD 2015; OECD 2016). Furthermore, the effective labour force exit age has risen both in Israel (although mandatory retirement arrangements are permitted by law) and in Canada (despite the mass retirement of baby-boomers) (OECD 2015). In both countries, many workers wish to work past the age of 65, for various reasons, including the inadequacy of retirement savings (Bonikowska and Schellenberg 2014; Shillington 2016; CBS 2014). At the same time, youth unemployment is a notable issue in both countries (OECD 2018a; 2018b). Despite these potential challenges, both countries have yet to develop a national strategy on aging which would include a focus on the labour market and engage various social partners including trade unions.

However, Canada and Israel are also quite different. While life expectancy at birth is similar in both countries (around 82) (WHO 2018), Israel's population is younger than Canada's. In 2016, the median age in Israel was 30.1, as compared to 40.8 in Canada, although these figures are predicted to get much closer by 2100 (45.8 in Canada and 45.1 in Israel) (OECD 2013: Graph 4.1). The countries also represent quite different labour relations regimes. Labour relations in Canada are highly decentralized and localized. While broader-based bargaining arrangements are possible, they are less common. Particularly in the private sector (with the exception of the construction industry), the bargaining unit is usually establishment- or employer-based (Ministry of Labour 2016). In Israel, sectoral bargaining is more common, although there is an ongoing trend towards decentralization (Mundlak 2007: 48-50; Kristal and Cohen 2007). While there are over 700 unions in Canada, eight unions (five national and three international) represent 45.1% of all unionized workers. More than two-thirds of unionized workers are affiliated with the Canadian Labour Congress (CLC) (Employment and Social Development Canada 2016: 3-4). In contrast, Israel is a corporatist regime with two strong social partners (an employers' union and an employees' union) (Mundlak 2007: 34-47). Most unionized workers (61%) are represented by the *Histadrut* (CBS 2014: 104).

While any comparative analysis should be conducted with great caution due to the various legislative, political and cultural differences between the countries being compared, and even between the various provinces across Canada, the significant implications of the aging of the population around the globe call for comparative research and analysis across borders.

2. The Case for Age Diversity and Intergenerational Solidarity

There is compelling evidence that older workers face significant challenges in the labour market. Specifically, those who have lost their jobs spend longer periods in unemployment than young workers, may have to settle for nonstandard, precarious work, and suffer wage losses or even involuntarily exit the labour market (Morissette *et al.* 2007; Schirle 2012; Statistics Canada 2016a; Lurie 2015). Many older workers also lack proper training and accommodation, which negatively affects their job retention and reemployment prospects (Alon-Shenker 2012; Banks *et al.* 2013). While there are various reasons for these challenges, ageism has been identified in the literature as a main obstacle to attaining and maintaining satisfactory work (Harris, 2017; Doron 2013). Older workers often see age discrimination as a major barrier to reemployment and job retention (Berger 2006; Hendlas 2010). Indeed, some employers hold ageist stereotypes and negative attitudes towards older workers, such as that they are less motivated, physically capable, flexible and productive than young workers (Ontario Human Rights Commission 2001; Hendlas 2014).

At the same time, there is growing evidence that young Canadians and Israelis face substantial challenges in the labour market too. In addition to rising youth unemployment rates, young workers are more likely to be laid off as compared to adult workers, and while they usually spend less time unemployed, many young workers are in precarious employment or unpaid internship (Bernard 2013; Cranford *et al.* 2003; Lurie 2015). Indeed, a decline in their job quality, specifically in fulltime work and wages, has been noted in the last few decades (Statistics Canada 2016b; Nathanson *et al.* 2014). It seems that young workers too are subject to negative stereotypes, such as that they are less reliable and committed and less competent than older workers (Schoenbaum 2017). Indeed, age discrimination against young workers is increasingly common

and harmful. Accordingly, ‘ageism’ has been redefined to capture the experience of both the old and the young (Sargeant 2011: 1, 8).

Unfortunately, antidiscrimination laws sometimes fail to provide an effective response to the victims of age discrimination. Like racism and sexism, ageism is often implicit and subtle, embedded in our culture, systems and institutions, posing major evidentiary challenges for complainants (Alon-Shenker 2016; Blackham 2016; Numhauser-Henning 2013). To combat age discrimination, policies and practices, which actively promote age-conscious recruitment and retention, training and job design, are needed.

While both older and young workers experience discrimination, their interests might not always align. The aging of the workforce is often viewed as a ‘demographic catastrophe’ in which older people become a burden on society and conflicts between the generations over scarce resources intensify. Indeed, increased life expectancy, combined with a lower fertility rate and the mass retirement of baby boomers, may negatively affect economic and labour force growth and increase the fiscal pressures on the pension and health system. Governments, in response, introduced policies which promote active aging to prolong the working lives of older workers. But as youth unemployment increases, there is a growing public policy concern that continued employment of older workers reduces job opportunities for young workers. Although there is no compelling evidence to support this concern, and in fact, research shows that where older workers are well retained, more job opportunities are available to young workers (Munnell and Wu 2012), there is always the risk that if older workers are misplaced and work in entry-level positions, the competition for jobs will negatively affect the job prospects of young workers. The key is to avoid framing the interests and special needs of older and young workers as competing or conflicting. They are often quite similar (for example, job quality, workplace health and safety, and lifelong

learning) and when different can be mutually and integratively promoted (through, for example, knowledge transmission and job sharing schemes). Balanced intergenerational policies which promote solidarity and synergy between generations and their needs could therefore ensure that workers, who wish or have to work longer, are in fact able to do so, and would allow employers to rely on their expertise and experience and address pressing concerns, such as talent loss and labour shortage, as well as improve employment prospects for young workers.

Against this background, we turn our attention to trade unions. Trade unions have proven to be very successful in enforcing employment standards. Unions have stronger bargaining power than individual workers might have, as well as more knowledge and resources to enforce rights and effect a change in society (Davidov 2004). True, union density has declined over the years in most developed countries, including Canada and Israel. Still, the terms and conditions of employment in nonunionized workplaces are often influenced by collective agreement provisions (Kahn 1980; Neumark and Wachter 1995). Furthermore, legislative and policy changes can be inspired and even influenced by the labour movement and collective bargaining issues.

While unions are putting effort into recruiting and engaging new members (who are usually young workers), they also have increasing numbers of pensioner members as the workplace is aging. And they might struggle to balance the interests of them all (Pascual and Waddington 2000). It would therefore be interesting to see what trade unions, which are often viewed as leaders on human rights issues and drivers of positive social change (Briskin 2011; Hunt and Rayside 2002), have done to address age diversity and intergenerational issues in the workplace. It would be particularly interesting to see which social gerontology approach to intergenerational issues trade unions have taken – one that views generations and their interests, values and priorities as inherently conflicting and even hostile towards each other, or one that sees the potential for and

the benefits of interaction, solidarity and enrichment between generations (Doron *et al.* 2017; Legault 2009).

Before delving into the particular cases of Israel and Canada, in the next Section we will provide a brief literature review of what is already known both theoretically and empirically about trade unions and their approaches to equality, diversity, and intergenerational issues.

3. Unions, Equality, Diversity and Intergenerational Issues

3.1 Unions generally promote Employment Terms and Conditions which could benefit both Young and Older Workers

John Dunlop (1958) characterized industrial relations as a system. According to Dunlop, trade unions and employers are two important actors in the system (together with the state), which share the same ideology (*ibid*, 53). Together they establish the rules for the workplace and for the work community (*ibid*, 51). Following Dunlop, Richard Freeman and James Medoff (1984) emphasized trade unions' role in promoting 'collective voice' and 'public goods' in the workplace (Doucouliagos *et al.* 2017). Many important aspects of an industrial setting are 'public goods' that benefit workers of all ages, young and old (such as safety conditions, lighting, heating, pension plans and health insurance) (Freeman and Medoff 1984: 94-111, 122-35). Without a collective organization, the incentive for the individual to invest time or money in changing conditions is likely to be too small to spur action. Several studies show that unionized workplaces (and collective agreements) include arrangements with regard to hours of work, such as flex-work, which enable both young and older workers to combine work and rest (Crocker and Clawson 2012: 462).

Research shows that trade unions also tend to promote wage equality in the workplace (Card 2001; Kristal 2010). Unions tend to reduce wage inequality within the unionized sector by

pushing up the wages of low-skilled and vulnerable workers (including youth) (Gomez and Lamb 2016). A positive correlation was found between the decline in union density and the rise in inequality (Card 2001; Lynk 2009; Kristal 2010). Lastly, large unions tend to promote broad interests, potentially including policies on equality, diversity and intergenerational issues (Olson 1982: 47-53). Indeed, some empirical studies have found that the presence of large unions strengthens individual protection from discriminatory treatment, including specifically age discrimination (Harcourt *et al.* 2004).

3.2 Unions' Focus on the Median Employed Worker

Nonetheless, collective bargaining is not always viewed as a mutually beneficial dialogue. Taking a Marxist perspective, Richard Hyman (1945) argued that 'Industrial relations is the study of processes of control over work relations,' and that 'An unceasing power struggle is ... a central feature of industrial relations' (ibid, 26). Therefore, arrangements that benefit workers might reduce the profits of capital (and vice versa). This may create a particular challenge when human rights, non-discrimination and equality issues are at stake. On the other side of the spectrum, the neoclassical economic approach also views benefits for union members as a loss for business and for society as a whole. Scholars such as Richard Epstein (1983) and Richard Posner (1984) view trade unions as monopolies or cartels 'designed to raise the price of labor above the competitive level' (ibid, 991). On this view, it could be argued that unions do not promote age equality or diversity, but rather to the contrary, are likely to promote older, senior workers *at the expense* of young workers (Posner 1984: 1006-7).

Even those who accept Dunlop's view of industrial relations as a system, as well as the union's role in representing workers' voice, are often critical of the outcomes. Specifically, they

ask which workers unions tend to represent, and which workers unions do not tend to represent (Lurie 2013; Foster and Fosh 2004). Whose voices are being heard and whose are not? Research shows that unions tend to promote the median worker and, on several occasions, to discriminate against minorities (Kaufman 2002: 139; Budd 2007: 162-64). While the median union member is not young, neither is she close to retirement. Therefore, both groups – the young and the old – might suffer from discrimination. This may include new workers who are often young, older workers who are close to retirement, and retirees. In addition, since administration and leadership positions are more often held by more senior and tenured workers, and less by young workers (who lack employment security, are focused on career advancement and their young families, and might be hesitant to take confrontational positions) (Ledwith *et al.* 1990), young workers might suffer from lack of representation and a democratic deficit.

3.3 Research on Trade Unions, Age and Intergenerational Issues is Limited

While several Israeli and Canadian studies have examined the attitudes of the labour movement and trade unions towards equality and diversity, they have not focused on age issues (e.g. Briskin 2002; Hunt and Rayside 2007). Some studies have focused on age, but specifically either on older workers or young workers, rather than intergenerational issues (e.g. Lurie 2013; Fourzly and Gervais 2002; Kwok *et al.* 2016; Gomez and Lamb 2016).

Little is known, then, about how trade unions in these jurisdictions balance the interests of young and older workers and how they promote intergenerational solidarity, if at all. The same is true for research conducted in other jurisdictions, with the recent exception of the EU. The EU iNGenBar project explored in 2014, through case studies, the opportunities and barriers to intergenerational bargaining in France, Germany, Italy, the Netherlands, Sweden and the UK. It

found that although some collective bargaining initiatives addressed intergenerational issues, such as knowledge and skills transfer, more can be done to explicitly promote intergenerational synergy and integration between the skills, interests and needs of older and young workers. It concluded that '[s]ocial partners can have a unifying effect between the generations of workers by avoiding the frame of "generational conflicts," and following an approach of collaboration, reciprocal solidarity and combatting the myth of the existence of directly competing groups in the labour markets' (Tros and Keune 2014: 16). Finally, a recent study of elder law in the EU and Sweden found contradicting intergenerational approaches (i.e. both solidarity and conflict), referred to as 'intergenerational ambivalence,' coexisting in labour market regulation and collective bargaining. For example, while age is commonly used as a social stratifier in the labour market through mandatory retirement arrangements and other age-based employment provisions, the legal principle of non-discrimination on grounds of age is a fundamental one (Votinius and Rönmar 2017).

4. Methodology

In this Article, we explore how trade unions in Israel and Canada promote age diversity and intergenerational solidarity in the workplace through collective agreements, case law, unions' constitutions and websites. Our search focused on keywords which are specifically and explicitly related to older workers, young workers, age diversity and intergenerational issues. We conducted our searches in English for collective agreements in Canada on the Employment and Social Development Canada, Negotech website, and in Hebrew for collective agreements in Israel on the Ministry of Labour website. Both websites contain full-text copies of current and historical

collective agreements and allow search by company, union, date, sector, industry, and other criteria.

5. Comparing Canada and Israel: Findings

5.1 Similarities between Unions in Canada and Israel: Promotion of Age Diversity

We found that unions in both countries promote age diversity in three main ways: through employability and career development provisions; through accommodation and flexible work arrangement provisions; and through an organizational focus on young and older members.

Employability and Career Development Provisions

Canada: Collective agreements in Canada contain many employability measures, which assist all workers, including both young and older workers (without specific reference to older workers). Our search yielded many results for career development (generally without any specific reference to young or older workers). Training provisions are also very common (including on the job training, retraining, and education funds) (e.g. JVD Installations Collective Agreement, §18.02). In addition, education leave and sabbatical leave are pretty common and often tied to length of service. While sabbatical leave is mostly common in universities, other occupations and sectors have introduced sabbatical leaves, though these are sometimes unpaid (e.g. Spectra Energy Collective Agreement, §8.03). Paid educational days are more common, but generally apply to all permanent employees (e.g. FirstCanada ULC Collective Agreement, §8.08).

Israel: As in Canada, collective agreements in Israel contain many employability measures, which assist all workers, including both young and older workers. These provisions are especially

common in the public sector. The most popular provision includes an employee right to an employer contribution to an education fund. Training clauses and sabbatical leave clauses are very common as well.

Accommodation and Flexible Work Arrangement Provisions

Canada: While many collective agreements deal with accommodation due to disability, very few also address accommodation of age-related needs. For example, the Collective Agreement at the City of St. John's states that 'An employee unable, through injury, illness or advancing years, to perform his/her normal duties shall be provided with alternate employment, if such is available ...' (City of St. John's Collective Agreement, §12.09). We also found a few collective agreements which provide support for those taking care of aging parents, for example, by providing paid special leave, or by crediting those who left the workplace to take care of an aging parent and were reemployed with length of service accumulated at the time of termination for the purpose of benefits (e.g. BCGEU Collective Agreement, §10.6).

As for flexible work arrangements, while the law does not require it, many collective agreements include provisions which facilitate choice and flexibility (including flexible hours, flexible work, flexible scheduling, shift exchange, job sharing, workload reduction and compressed work). Usually these provisions are not geared specifically towards older workers or young workers (e.g. St. Michael's Collective Agreement, §12.15, §12.16), with few exceptions (e.g. University of Western Ontario Collective Agreement).

Israel: As in Canada, many collective agreements in Israel deal with accommodation due to disability, but not with regard to age-related needs. As in Canada, several collective agreements in

Israel include an employee right to a paid special leave for providing care to an aging parent (e.g. Isracard Collective Agreement). Nonetheless, in Israel all workers are entitled to take several days off each year in order to take care of their parents, and most collective agreements only refer to the law and do not provide anything above this requirement (Sick Pay (Absence due to Parent's Illness) Law, 5747- 1993).

Israeli legislation and collective agreements do not contain a general right to request a reduction in work or flexible working hours. Nonetheless, collective agreements do include special rights granted to parents (which might serve young workers) and to older workers. In fact, we found that most collective agreements in the Israeli public sector contain a right to reduced working hours for parents (e.g. The Civil Service bylaw, §31.153). We also found several collective agreements which contained a right to reduced working hours for older workers. For example, a collective agreement between the Government of Israel and the Teachers' Union (*Histadrut Hamorim*) enables teachers above the age of 50 to teach two hours less and teachers above the age of 55 to teach three hours less.

Organizational Focus on Young and Older Members

Canada: Unions in Canada have established special institutions which support, separately, retirees and youth. While retiree members are limited in terms of electing and being elected to union locals, they have some alternative mechanisms. First and foremost, the Congress of Union Retirees of Canada founded in 1991 is an affiliate of the Canadian Labour Congress and represents over half a million retired union members (Congress of Union Retirees of Canada's website). Second, various unions have established different chapters and councils for retirees. For example,

according to Unifor's Constitution, twenty-five or more retired workers can apply to establish a Local Union Retired Workers Chapter (Unifor Constitution, §12).

Youth also receives some organizational attention from unions. For example, Unifor's Canadian Council has established Standing Committees with respect to various issues, including Young Workers (Unifor Constitution, §9). Each Regional Council and the Quebec Council have established standing committees with respect to various issues, including Young Workers (Unifor Constitution, §10). Finally at the local level, the Local Union Executive Board includes a Retired Worker Representative (Unifor Constitution, §15). And every Local Union has to establish various Standing Committees, including for Young Workers (*ibid*). Unifor has also held young workers conferences and training programs (Unifor's website). Similarly, CUPE has established a National Young Workers' Committee made up of activists under 30 years of age (CUPE's website). UFCW Canada promotes 'know your rights' workshops and a young workers internship program (UFCW's website).

Israel: As in Canada, unions in Israel have established special institutions which support, separately, retirees and youth. A special department in the *Histadrut* (*Histatrut Hanoar Haoved ve Halomed*, established in 1924) aims to represent the interests of youth – mainly workers between the ages of 14-18 (*Histadrut's* Constitution, §10). During the years 2013-2015, this department made special efforts to organize youth employees in the fast food industry. While these efforts were unsuccessful in McDonalds (due to management resistance), the department did manage to sign collective agreements with Pizza-Hut and Burger-Ranch. Both collective agreements contain several provisions, which are targeted towards young workers. First, they require employers to aim to recruit new workers who are members of that special department. Second, they contain a general

provision, which enables employers to provide workers with subsidies for their studies (Burger-Ranch Collective Agreement; Pizza-Hut collective Agreement; Histadrut Hanoar Haoved ve Halomed 2015).

In parallel to the youth department, the *Histadrut* also has a special department (*Histadrut Hagimlaim*) which aims to represent the retirees. Membership in the department is open to retirees, who are 60 years old and above (*Histadrut's* Constitution, §11). One of the department's main purposes is to ensure that retirees receive adequate pension from their previous workplaces (ibid). Similar special departments for retirees exist in most Israeli unions, including the Teachers' Union and the Israeli Medical Association (but not in relatively new unions) (The Teachers Union's website; The Israeli Medical Association's website).

5.2 Similarities between Unions in Canada and Israel: Weak/Ambivalent on Intergenerational Issues

We also found that unions in both countries do not take sufficient action to promote intergenerational solidarity and in some cases even inhibit solidarity between generations (through two-tier collective agreements, seniority provisions and attitudes towards mandatory retirement).

Two-tier Collective Agreements

Canada: Since the law in most Canadian provinces does not prohibit two-tier collective bargaining (collective agreements which provide new employees with reduced working conditions), these arrangements are somewhat common in both the private and public sectors (Mac Neil 2013). The Public Service Labour Relations Act explicitly recognizes the concept of two-tier bargaining and permits parties to use flexible arrangements in negotiating collective agreements (the Public

Service Labour Relations Act, S.C. 2003; Government of Canada). According to the government, two-tier bargaining is a ‘mechanism that permits the Employer and the bargaining agent to focus on and tailor terms and conditions of the agreement to specific situations in a given department or departments’ (ibid).

The demand for a two-tier arrangement, specifically following the 2008 economic recession, has led some unions to agree to the replacement of defined benefits pension plans with defined contribution plans for new employees (Mac Neil 2013: 182-3, 195). However, the response of arbitrators and labour relations boards to these demands and arrangements has been inconsistent with a certain acceptance of their legitimacy and some reservations regarding equity issues (ibid, 200-1).

Recently, Canadian unions have more strongly objected to two-tier bargaining. CUPE, for example, has declared its commitment to ‘the next generation of workers,’ stressing the difficulty in building solidarity between generations if two-tier agreements are acceptable (Canadian Union of Public Employees 2014). Other unions, such as the USW, have fought two-tier bargaining as well (USW 2017). Unifor has written at length against the two-tier system in its recent submission to the Ontario Ministry of Labour (Unifor 2015). It recommended that the *Ontario Employment Standards Act* be amended to ‘prohibit systemic pay and benefits discrimination based solely on the hire date or age of an employee’ (ibid, 39).

Israel: Like Canadian law, Israeli law does not prohibit two-tier bargaining. While the law also does not explicitly address two-tier bargaining, Israel’s National Labour Court explained in the *Nakash* case that ‘Although there are many negative aspects in the existence of these agreements,

in light of the reality of the labour market today it can be argued that these agreements are the best that can be achieved.’ (Nakash 2007, §10).

Consequently, two-tier arrangements are common in the Israeli private and public sectors (Racabi 2018). During the years 1999-2005, the phenomenon of two-tier collective agreements peaked in Israel. Many of the collective agreements signed during these years regulated a shift from defined benefits plans to defined contribution pension funds (for new workers). More recently, unions in Israel (like those in Canada) have been more reluctant to enter two-tier collective agreements. In fact, Israeli unions have made efforts to decrease inequality between generations in existing two-tier collective agreements. For example, in the Port of Ashdod and at Israel Discount Bank, the unions and the employers signed new collective agreements, aimed at reducing inequality between first and second generations (Port of Ashdod Collective Agreement; Israel Discount Bank Collective Agreement).

Seniority Provisions for Older Members and Special Entitlements for New Members

Canada: Seniority has been regarded as highly important to the collective bargaining regime and is a very common provision in collective agreements across Canada. Many rights and benefits are based on seniority, including scheduling, hiring and promotion, and access to overtime opportunities (e.g. ‘If the hours of a full-time employee ... are reduced ... then such full-time employee shall have the right to ... bump another full-time employee with less seniority...’; LS Travel Retail Collective Agreement, §14.08). Many provisions are tied to length of service, including the compensation scheme and vacation time (e.g. Vice Studio Canada Collective Agreement, §7). In addition, some agreements entail a last-in-first-out (LIFO) provision, which

provides more employment security to workers with longer service (e.g. Western Forest Products Inc. Collective Agreement, §XX, Section 2(a)(i)).

At the same time, unions have increasingly tried to address issues concerning young workers both within collective bargaining (e.g. maternity leave provisions) and outside collective bargaining (e.g. the fight for a \$15 minimum wage) (OFL, Make it Fair). For example, in the recent review of labour laws in Ontario, many unions' written submissions have identified young workers as one of the categories more likely to end up in precarious employment, and have made proposals to address the specific struggles of young workers in the labour market (e.g. Ontario Public Service Employees Union 2015). However, there are very few examples of collective agreements, which refer specifically to special training programs for young workers (e.g. Nova Scotia Construction Collective Agreement, §29.08). Finally, we found a very interesting clause in the Queen's University collective agreement, according to which 'a junior increment' will be added each year to the salary of union members with fewer than ten years of experience and with a salary below a certain threshold, while 'a senior abatement' will apply to union members with salaries above a certain amount, in what seems to be an attempt to promote intergenerational equity (Queen's University Collective Agreement, §42.2.3).

Israel: In Israel, as in Canada, seniority is highly important in collective bargaining both at the sectorial level and at the firm level (Lurie 2013: 113-60). First, eligibility for several fringe benefits (such as pension benefits) depends on a specific seniority in the workplace (Mandatory Pension Expansion Order 2011). Second, as in Canada, the length of several benefits, including vacation and paid sick leave, depends on the length of service (Lurie 2013: 140-1). Moreover, many collective agreements tie wage to seniority: the higher the seniority the higher the wage. Third,

many collective agreements entail a LIFO provision (e.g. Shakmona Collective Agreement, §2.4.1). For example, a collective agreement at a company named Sanmina – SCI Systems Tel Aviv Ltd. states that dismissals will follow the LIFO rule (Sanmina – SCI Systems collective Agreement, §4) .

Although traditionally collective agreements (and unions) provide better rights to senior workers than to new workers, in recent years a reverse trend is evident as well (similarly to Canada). Generally, unions, and specifically the *Histadrut*, promote the rights of young and new workers in several ways. First, in 2014 the *Histadrut* and Israel’s major employers’ union signed a collective agreement, which increased the minimum wage in Israel. Shortly afterwards the Israeli Parliament (the Knesset) amended the Minimum Wage Act, in light of the collective agreement. This step helped many new (and unskilled) workers in Israel, who earn low wages. Second, recently the *Histadrut* successfully promoted an amendment to the Annual Leave Law (5711-1951), extending the number of paid vacation days that new workers are allowed to take.

Unions’ Attitudes towards Mandatory Retirement

Canada: In the past, unions supported mandatory retirement arrangements, which used to be very common across Canada. However, there were also cases where mandatory retirement arrangements were imposed upon unions (MacGregor 2005). In the last decade, all Canadian jurisdictions have outlawed mandatory retirement, albeit some with broad exceptions and exemptions (Alon-Shenker 2014a: 28-32). That is, many Canadian workers can still be forced into retirement (Kenneth 2016: 406). Our search for ‘mandatory retirement’ yielded very few results. For example, we found a collective agreement which requires firefighters to retire at the age of 60 (City of Surrey collective Agreement, §6.14). Provisions in other collective agreements simply

aim to adjust the language of the agreement to the abolishment of mandatory retirement (e.g. BC Institute of Technology Collective Agreement).

On the other hand, some collective agreements include clauses which provide less or no health plan, life insurance, and short- and long-term disability benefits to workers over the age of 65. This is lawful because some jurisdictions explicitly allow in their legislation for age-based distinctions in the provision of pension and benefits plans (Ontario Human Rights Commission 2009: 21; Charney and Horner 2013). Some trade unions and workers have tried to constitutionally challenge such provisions, but were mostly unsuccessful (Ontario Nurses' Association 2010) until very recently (Talos 2018). As the statutory exception of age-based distinction is often subject to the employer's discretion, some collective agreements provide workers above 65 with equal benefits (e.g. Canadian Union of Public Employees 2010).

Israel: Unions in Israel have not taken an active role in recent debates and legal disputes around mandatory retirement (Gavish 2016; Veinberger 2012). In the past, unions together with employers promoted mandatory retirement arrangements. Many collective agreements, especially in the public sector, still contain mandatory retirement provisions (e.g. Raphael Collective Agreement, §14). In 2004, Israel's Parliament (the Knesset) passed the Retirement Age Act which states that an employer may force employees to retire at the age of 67. Consequently, unions and employers can only negotiate mandatory retirement provisions, which enable workers to work at least until the age of 67. While some workers have pursued legal action claiming that this section is unconstitutional, the National Labour Court and the Supreme Court of Israel have held that this section, while discriminatory, is justified and proportional (Gavish 2016; Veinberger 2012). Similarly to Canada, Israel's legislation and case laws allow age-based distinctions between

workers. Specifically, according to legislation and several case laws, workers above the age of 67 are excluded from legal protection against age discrimination (Kelner 2006; Drozovsky 2006).

5.3 Differences between Unions in Canada and in Israel

We also found several differences between unions in Canada and Israel. Generally, it seems that Canadian unions are somewhat more committed to the promotion of age equality and diversity than Israeli unions.

Declarative Commitment to Age Equality and Diversity

Canada: In Canada, the prohibition on discrimination, including on the basis of age, under human rights legislation specifically applies to trade unions (e.g. Ontario Human Rights Code, §6; Ontario Labour Relations Act, §54.). In addition, the duty of fair representation entails an obligation to refrain from discrimination on various grounds, including age (e.g. Ontario Labour Relations Act, 1995, §74).

Usually, trade unions declare their commitment to equality, including age equality, in their constitutions. For example, Unifor's Constitution sets out the main objectives of Unifor, including to 'ensure equality regardless of various prohibited grounds such as race, gender and age...' (Unifor Constitution, §3). Furthermore, Unifor's Constitution sets out a code of ethics and democratic practices, which among other things forbid discrimination (Unifor Constitution, §4). Its Constitution refers specifically to young workers: 'Unifor is fully committed to equity and inclusion. Women, Racialized ... Young Workers, Workers with Disabilities and other Equity seeking groups, will be represented in the structures of the union at all levels' (Unifor Constitution,

§11). A review of other trade unions' constitutions revealed similar findings (CUPE Constitution, §2.1(h), Appendix D; UFCW Canada Constitution, §4(a)).

Similarly, many Canadian collective agreements include a declaration that the parties will refrain from any discriminatory conduct, including age discrimination, in the workplace. For example, the collective agreement between North East Community Care Access Centre and Ontario Nurses Association declares: 'It is agreed that there will be no discrimination by either party or by any of the employees covered by this Agreement on the basis of race, creed, colour..., sex, ... age, ethnic origin, disability or any other factors not pertinent to employment' (North East Community Care Access Centre collective Agreement, §4.02).

Several trade unions' websites include specific and explicit references to age equality and diversity as well. For example, Unifor's website states that 'Unifor recognizes the valuable contribution of equality-seeking groups within the union. Women, racialized workers, aboriginal workers, LGBT, workers with disabilities, young workers and others, bring to the union inspiration, innovation and dignity.' Unifor's website also refers to an academic research on age discrimination against older workers (Alon-Shenker 2014b). But CUPE's website does not include any specific reference to age discrimination, older workers or ageism. By contrast, it does refer to some resources and information about young workers (CUPE, Young Workers). Similarly, the USW's and the UFCW's websites do not include any specific references to age discrimination, equality or diversity.

Israel: In contrast to Canadian law, Israel's legislation does not explicitly prohibit unions from discriminating. The ban on age discrimination applies only to employers and not to trade unions (Employment (Equal Opportunities) Law, §2). Nonetheless, as in Canada, the duty of fair

representation entails an obligation to refrain from discrimination on various grounds (Budenker 2013). In several case laws, plaintiffs claimed that the collective agreement, which applied to them, discriminated against them based on age, gender, gender identity or nationality (El-Al 1994; Nevo 1990). In all these cases, the courts declared that the discriminatory clauses in the collective agreements were void. Nonetheless, the courts held that the responsibility lay only upon the employers and not the trade unions (ibid).

In contrast to Canadian trade unions, Israel's major union, the *Histadrut*, in its constitution does not include an explicit prohibition on age discrimination or any other form of discrimination (*Histadrut's Constitution*, §1). Nor does the constitution refer to age diversity. Nor do the constitutions of smaller unions include references to age discrimination or age diversity as well (*Histadrut Haleumit's Constitution*; *Histadrut Hamorim's Constitution*). Even the new Israeli unions, which were established in 2008 and 2009, do not mention (age) equality, diversity or discrimination in their constitutions (*Koach Laovdim – Power to Workers' Constitution*; *Maan's Constitution*). Moreover, since the establishment of Israel about 30,000 collective agreements have been signed (updated to July 2018), but only around 30 (0.1%) mentioned the word 'discrimination.' Only 84 collective agreements (0.28%) mentioned the word 'equality.' We did not find any collective agreement which mentioned 'age diversity' or 'diversity.'

In contrast to their constitutions, several unions' websites include excerpts from the Israeli Employment (Equal Opportunities) Law, including the prohibition on age discrimination (*Histadrut's website*; *Histadrut Haleumit's website*). The *Histadrut's* website also includes a summary of case laws with regard to discrimination (including age discrimination) (*Histadrut's website*). Nonetheless, the quotations from the *Law* are presented as part of employers' obligations, rather than unions' obligations, towards their employees. New unions (e.g. *Power to the Workers*

and *Maan*) explicitly declare on their websites that they are committed to promoting equality and are against discrimination. Nonetheless, they do not explicitly mention age discrimination (Power to Workers' website; *Maan*'s website).

Explicit Intergenerational Discourse

Canada: A few Canadian unions' constitutions refer to intergenerational issues. For example, Unifor's Constitution acknowledges the struggles of young people and pledges to achieve equality and social justice and a brighter future for young people (Unifor's Constitution, §2). By contrast, CUPE's and UFCW's Constitutions make no reference to intergenerational issues.

A few Canadian collective agreements refer explicitly to intergenerational issues. For example, one of the governing principles of a Memorandum of Understanding regarding Telework was 'Intergenerational – we are currently in an environment where the nature of work is evolving as are the people who undertake that work. This memorandum is meant to be flexible to the generational differences in our workforce while providing options that meet the needs of [the Employer], [the Union], and its employees.' (Business Services and Canadian Office Collective Agreement; BC Hydro Collective Agreement). We found several more statements and documents around intergenerational issues on the unions' websites. For example, the President of USW, reporting on a new agreement ratified for Rio Tinto Alcan workers in Quebec, stated that '*[r]espect for intergenerational equity was [their] priority throughout the negotiations*' (USW 2015).

Israel: By contrast, we could not find any evidence of any union participation in intergenerational discourse in Israel. Unions' constitutions, websites and collective agreements do not include any explicit intergenerational discourses. And while the *Histadrut's* Constitution refers to the rights of youth and the rights of pensioners, it does so separately (*Histadrut's* Constitution, §§10-11).

Gradual Retirement

Canada: A growing number of Canadian collective agreements facilitate and encourage phased retirement opportunities. We found many references to phased retirement, partial retirement and reduced workload in collective agreements, many of them at universities, for example, a phased retirement program for fulltime faculty members and librarians who are at least 60 and have at least 10 years of service which allows for reduced responsibilities and workload (Brock University Collective Agreement). Only one agreement stipulated a 'retirement preparation' course (City of Fredericton collective Agreement). Also, there were very few results for post-retirement employment.

Israel: Israeli unions have not yet adopted phased retirement arrangements in collective agreements. Upon searching Israeli collective agreements, we did not find any explicit reference to phased retirement. We found a few collective agreements which dealt with retirement preparation (e.g. the Kibbutzim College Collective Agreement, §46). We also found some flexible time and reduced hours arrangements for older workers (discussed above), which can be viewed as phased retirement provisions. Finally, we found a few collective agreements, which regulate the employment of retirees (e.g. Agricultural Educational Institutions Collective Agreement).

Early Retirement

Canada: While mandatory retirement has been outlawed, the law allows for the provision of early retirement as long as it is voluntary. Many collective agreements encourage voluntary (early) retirement and severance packages in case of surplus. A search for ‘early retirement,’ ‘retirement pay’ and ‘retirement allowance’ yielded many results. For example, ‘In the event there is a surplus of employees created as the result of moving the woodlands operation or subdivision thereof to a Contractor, the Company will offer severance pay ... to the surplus employees. By agreement between the Company and the Union, the severance pay opportunities may be directed towards facilitating the severance of older workers who may volunteer for such severance.’ (Western Forest Products Inc. Collective Agreement).

Interestingly, some early retirement packages are only available to workers above or below a certain age. For example, some packages focus on older workers below the age of 65. Arguably, this raises concerns of discrimination on the basis of age. However, several decisions have held that lower and upper age limits are not discriminatory (Kovacs 2013, §16). But in another case, where bus operators could choose to retire early (55-65) and had the option of returning to a driving position with their full seniority after retirement for each summer ‘until attaining the age of 65,’ this provision was found to be discriminatory on the basis of age, when a retiree who wanted to return when he was 65 was denied (Amalgamated Transit Union 2017).

Israel: Early retirement provisions were very common in Israeli collective agreements in the past. They used to include eligibility for an employer-based defined benefits pension plan. In a process that began in 1999 and ended in 2005, Israel invalidated new workers’ eligibility for employer-based defined benefits pension arrangements, allowing them to join only defined contribution

pension funds. Under the new pension regime, early retirement arrangements (which provide early pension) are less common. Current voluntary retirement packages include mainly a lump sum and not an early pension (e.g. Strauss Collective Agreement). As in Canada, collective agreements in Israel sometimes include early retirement packages which are limited to certain age groups (e.g. the Electricity Company Collective Agreement). However, these have rarely been contested in the courts and focused on gender inequality (Eitana Niv 2002).

6. Discussion

6.1 Similarities between Unions in Canada and Israel

We found that Israel and Canada share several similarities in how their unions approach issues of age diversity and intergenerational conflicts.

Promotion of Age Diversity

We found that unions in both countries promote age diversity in several ways. First, unions in both countries promote **employability** and **lifelong learning**. Lifelong learning assists employees at all ages, including both young and older workers. While young workers benefit from training, which assists them once they enter the workplace, older workers benefit from training, which enables them to adjust to new technologies and to switch between tasks. In both countries, while employability measures are common, they are still not used across the board. Furthermore, we were unable to find more structured policies around employability catered to the needs of older workers despite its increasing significance. Second, some collective agreements in both countries include **flexible time arrangements**. These provisions are usually specific to parents or older workers in Israel and of more general application in Canada. Flexible time arrangements may

promote age diversity because they allow workers in various stages of their lives to take more or less work based on their needs, including raising a family or preparing for retirement. However, the right to request flexible work arrangements that, for example, will allow a young or older worker to move from fulltime to part-time work, or to request job-sharing is still not very common. Third, unions in both countries established **special institutions**, which support separately young workers and older workers (especially retirees). While separate institutions are required to address specific needs of different groups, we could not see significant attempts to create bridges and collaborations between institutions in a way that would promote intergenerational solidarity and explore opportunities to advance the shared interests of young and older workers.

The above findings show that unions are capable to represent the interests of workers of all ages and promote age diversity. These findings corroborate Dunlop's description of industrial relations as a system in which unions and employers establish the rules for the workplace (Dunlop 1958: 43-61). In this system, unions represent the interests of workers as a whole (including young and older workers) and promote collective voice in the workplace (Freeman and Medoff 1984). The findings show that unions are indeed capable of promoting 'public goods' in the workplace (such as employability measures) which assist all workers (ibid, 8-9). They also show that unions reduce wage inequality by promoting a higher minimum wage (which again assists workers of all ages) (Kristal 2010; Card 2001).

6.2 Weak/Ambivalent on Intergenerational Issues

We also found that unions in both countries do not take sufficient action to promote intergenerational solidarity and in some cases even inhibit solidarity between generations.

First, **two-tier collective agreements** are quite common in both countries. Since two-tier collective agreements often provide reduced rights to newly hired workers, they provoke conflicts and raise significant equity issues between young and older workers (Mac Neil 2013: 181-4). Second, **seniority provisions** are also very common in both countries, including compensation schemes, vacation time and LIFO provisions. Seniority provisions could spark intergenerational conflicts. They create barriers for young workers, who are the first to lose their jobs in case of downsizing. Seniority provisions also impose transaction costs on workers, who might need to move from one job to another (Stone 2004: 244). Third, unions in both countries have promoted, or at least agreed to, **mandatory retirement provisions**. Mandatory retirement provisions enforce retirement from work on older workers. While some view mandatory retirement provisions as a reasonable balanced approach to the conflict between generations, others argue that mandatory retirement amounts to unlawful discrimination on the basis of age. In both countries, mandatory retirement provisions are less common now.

The above findings depict a weak or an ambivalent approach to intergenerational issues, as termed by Votinius and Rönmar (2017). In several respects, unions do not sufficiently promote and even inhibit intergenerational solidarity. These findings corroborate Epstein's and Posner's view of trade unions as monopolies or cartels, which promote one group of workers at the expense of another (Posner 1984: 988-91, 1006-7; Epstein 1983). They also extend Hyman's description of labour relations as a struggle – not only between employers and employees, but also among employees themselves (Hyman 1975). Some of the findings might be explained by the literature as being due to unions' tendency to promote the median worker, who is neither young nor close to retirement (Kaufman 2002: 139; Budd 2007: 162-4), others as being due to the fact that leadership

positions in unions are often held by older rather than young workers or retirees (e.g. Ledwith *et al.* 1990).

However, we did notice a new trend in both countries, which may suggest that unions are putting more effort into promoting intergenerational solidarity or at least reducing conflicts between generations. First, we see fewer two-tier agreements in both countries and stronger opposition among unions to such arrangements. Second, there is a growing tendency to move away from mandatory retirement – more in Canada than in Israel. Finally, while seniority provisions are still popular, there are more provisions which also provide special entitlements to new and young members, such as maternity leave. Moreover, we found that unions in both countries were recently involved in various campaigns to improve working conditions for nonunionized workers, including increasing the minimum wage, which assists in reducing wage inequality between young and older workers.

This weak or ambivalent approach can be explained as follows. While Canadian and Israeli unions have increasingly used various tactics in response to the demographic challenges in the labour market, they have yet to develop a long-term strategy that will promote and align the interests of older and young workers. The reason might be that some unions may still view the interests of older and young workers as conflicting and are troubled by the redistribution of jobs between older and young workers. Another explanation is embedded in the eroding power of unions in both Canada and Israel and the decentralization of collective bargaining. A final, related explanation is that without the support of governments in the form of a national strategy on aging, which engages all social partners, trade unions cannot do much.

6.3 Differences between Unions in Canada and Israel

Generally, Canadian unions seem to be somewhat more committed to the promotion of age diversity than Israeli unions. First, at the **rhetorical level**, while some unions in Canada declare their commitment to age equality and diversity in their constitutions and websites and collective agreements, we did not find any explicit intergenerational discourse in Israel. Second, **phased retirement provisions** are more common in Canadian collective agreements than in their Israeli counterparts. Still, the Canadian provisions may be improved to further promote age diversity and intergenerational solidarity by, for example, implementing knowledge transmission practices, such as two-way mentorship, which allows young and older workers to benefit from each other's perspectives and experiences. Such provisions may encourage older workers to stay longer in the labour market, but under arrangements that may also allow young workers to step in and learn. Third, while unions in both countries have promoted a **voluntary early retirement** policy, these provisions currently seem to be more popular in Canada than in Israel. Early retirement policy (at its best) assists older workers, who have an option to voluntarily retire from work and be entitled to an adequate pension. An early retirement policy may also promote age diversity and intergenerational solidarity, as it creates new job and promotion opportunities for young and new members.

The differences between the two countries could be explained by the differences between the Canadian and the Israeli labour relations regimes, as well as between their respective labour laws and employment discrimination laws. Canadian law seems to provide less power to unions and more power to individual rights (and equality law), while Israeli law seems to do the opposite. In Canada, the prohibition on discrimination, including on the basis of age, under human rights legislation specifically applies to trade unions, whereas Israel's legislation does not explicitly prohibit unions from discriminating. The diversity discourse also seems to be more developed in

Canada than in Israel. These differences may affect the way in which unions consider their role in promoting (age) equality and diversity. Another notable difference between the countries, which may explain the differences in the findings, is that the median age in Israel is significantly lower than in Canada (10 years' difference). This may affect the extent to which discussions around aging workers and intergenerational solidarity have been entered into with the social partners. Nonetheless, Israel is rapidly aging and is predicted to draw closer to the Canadian median age in the future. Thus, both countries should address this issue.

6.4 Policy Recommendations

Our findings above lead to several policy recommendations to unions, employers and governments. Our comparative study includes several examples of 'good practices' in the form of collective agreement provisions which promote age diversity – for example, employability and lifelong learning provisions and flexible work arrangements. The more advanced provisions were found in sectors which are highly age-diverse, such as universities, perhaps because highly educated workers tend to remain longer in the workplace and universities have more experience with intergenerational issues. While some of the more advanced provisions are increasingly common, they are still missing from many agreements. Furthermore, a life course approach to collective bargaining should be prioritized by unions, as in Germany, where demography-related collective agreements (*Demografie-Tarifverträge*) implement lifecycle policies to support the specific and changing needs of workers in various life phases and create smooth transitions from school to work and from work to retirement through, for example, work-life balance, continuous training, age appropriate workforce design, and retirement transitions (Tros and Keune 2014: 22).

In addition, the voices of workers of diverse age groups should be heard. Unions should develop mechanisms and processes to ensure they equally represent their members. For example, they should ensure that leadership positions are held by workers of diverse backgrounds, including age groups. Equal representation in leadership positions, councils and committees may catalyse symmetry in the protection of young and older workers in collective agreements and beyond. It may consequently foster age equality, diversity and intergenerational solidarity in the workplace.

Furthermore, unions and employers should replace ‘bad practices’ with ‘good practices.’ As we have seen, two-tier collective agreements, seniority-based benefits and a separate organizational focus on young and older workers may inhibit age diversity and intensify intergenerational conflicts. While some unions in Canada and Israel are trying to alter some bad practices, more efforts should be made. More balanced intergenerational policies should be promoted to ensure that older workers, who prefer or need to, are able to prolong their employment, that young workers enjoy better employment prospects, and that employers can address succession plans and knowledge transmission issues more effectively. Importantly, given the eroding power of unions in both Canada and Israel, governments can and should support intergenerational initiatives. In France, for example, this was done through the ‘*contrat de génération*’ created by a statute of March 2013. Under this law, large organizations are required to negotiate an agreement or an action plan addressing specific generational issues, including measurable indicators, or be penalized by a fine, while smaller organizations are eligible for an annual subsidy for 3 years if they hire workers under 26 years on a permanent contract, while simultaneously retaining workers aged 57 years and older (or hiring workers aged 55 and older) (Robin-Olivier 2015).

Lastly, the benefits of an explicit discourse are clear. In Canada, where the law explicitly prohibits trade unions from engaging in age discrimination, some unions explicitly include this

prohibition in their constitutions and discuss intergenerational issues on their websites and as part of their other activities. Consequently, Canadian unions' promotion of age diversity and intergenerational solidarity is slightly more evident than that of trade unions in Israel, which does not have such a prohibition in its legislation, unions' constitutions and websites.

7. Concluding Remarks

Relying on comparative analysis, this Article has explored how trade unions in Canada and Israel promote age diversity and intergenerational solidarity. It has shown that trade unions in Canada and Israel do not sufficiently enhance age diversity in the workplace and sometimes even foster intergenerational conflicts. While the challenges faced by young and older workers in the labour market often are viewed as conflicting, nonetheless young and older workers share much in common. Often their challenges are interrelated and therefore should be viewed as an opportunity for collaborative effort to promote their shared interests. First, all (or at least most) workers are expected to grow old. Young workers will be the older workers of the future and therefore may be interested in provisions which will promote their future-selves. Second, studies have shown that increased participation of older workers positively affects participation rates among young workers. Finally, despite representing different generations, young and older workers often share many similar interests, such as having flexible work arrangements, which allow them to have a say and control over their work schedule, and lifelong learning and training, which both improve employability and prolong employment.

Unions should therefore strive to see beyond the conflicts, identify common ground and promote the mutual interests of both groups. While some issues cannot be viewed as common and conflicts may still arise, unions must try to find a way to reconcile conflicts that is not unreasonably

imbalanced, such as two-tier agreements. As our population ages, the need to address these issues will become more acute. It is therefore important that unions make this one of their top priorities. As the labour force becomes more age-diverse and heterogeneous following major demographic shifts in both countries, this should also be a top priority for employers and governments. But finding the appropriate balance between the interests of older workers and young workers is not an easy task which can be determined *a priori* by governments. It requires serious discussions between all stakeholders to better appreciate the changing needs of different age groups and the various ways in which unions can effectively promote age diversity and intergenerational solidarity.

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